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ABSTRACT

Presented are the summary and recommendations of Project CAMIO (Correctional Administration and the Mentally Incompetent Offender), a Texas study to determine the incidence of criminal incarceration of the mentally retarded (MR) and to identify laws, procedures, and practices which affect the prosecution and incarceration of the MR offender. Noted is the study's investigation into seven areas of concern: a review of theories on criminality and MR, the legal status of the MR offender, incidence and characteristics of the MR in adult and juvenile correctional institutions, the delinquent in a state residential facility for the MR, juvenile court handling of the MR offender at the community level, and a national survey of the diagnosis and treatment of MR offenders in correctional institutions. Identified are assumptions of the study such as the lack of a causal relationship between MR and commission of criminal acts. Discussed are 31 recommendations in the areas of education and training, research and development, administrative and procedural changes, and cooperative agreements. An example of a recommendation is amendment of the Texas criminal code to allow all incompetent defendants to be eligible for release from confinement whenever they do not require confinement for protection of themselves or others. (DB)

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Strategies for the Care and Treatment of the Mentally Retarded Offender

PROJECT CAMIO

Volume I

Strategies for the Care and Treatment of the Mentally Retarded Offender

PROJECT CAMIO

Volume I

Rogamus autem vos, fratres, corripite inquietos,
consolamini pusillanimes, suscipite infirmos,
patientes estote ad omnes.

Thessalonicenses I 5:14

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Jimmy R. Haskins
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December 1, 1973

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1.0 INTRODUCTION

Shortly after the turn of the century the Binet-Simon Intelligence Test was introduced in the United States precipitating a landslide of studies regarding the relationship between intelligence and criminality. A survey by Zeleny published in 1933 reviewed the results of approximately 200 experiments in this area and indicated that rather than general agreement among the findings there was, in fact, marked disagreement and confusion.[1]

During the first half of this century there reportedly were three schools of thought regarding the relationship of intelligence and criminality. According to Zeleny, scholars supporting the hypothesis of a significant relationship between low intelligence and criminality included Goddard, Hill, Morrow, Bridgeman, Rowland, Enyon, Williams, Glueck, Haines, Knollin, Herrick, Anderson, Kelley, Hickman, Gregory, Kuhlman, Root, and Erickson. Those supporting the opposite hypothesis of no significant relationship included Bronner, Healy, Adler, Doll, and Curti. A third group of researchers insisted that the relationship was between high intelligence and criminality. This theory was supported by studies conducted by Stone, Weber, Guilford, and Murchison. After reviewing the sampling procedures and measuring instruments of the various studies conducted in this area, Zeleny concluded that there was no relationship between intelligence and criminality.

Since Zeleny's survey the frequency of studies in this area diminished. However, the theoretical controversy surrounding the relationship between intelligence and criminality is still evident in recent studies in spite of the introduction of sophisticated testing instruments and more advanced sampling techniques. In more recent studies, Abrahamsen[2], Vold[3], Cooper[4], Taft and England[5], and Schur[6] supported the postulate that the preponderance of evidence indicate a causal relationship between low intelligence and criminality.

Recently, significant attention has been directed to the plight of the mentally retarded offender. Mannheim and other contemporary investigators warn against the careless acceptance of the conclusion that criminality is not related to low intelligence.[7] Ellis and Brancale reported that 4% of sex offenders in the state of New Jersey were mentally deficient as compared to a 3% incidence in the general population.[8] They further reported that 14% of such offenders were borderline mental defectives, as compared with an expectancy of 7%, and that 27% were dull normal as compared to an expectation of 16%. Furthermore, a survey of all correctional institutions in the nation conducted by Brown and Courtless for the President's Commission on Law Enforcement and the Administration of Justice, indicated that over 20,000 inmates in state correctional institutions had IQs of 70 or below.[9] At the time of their study, these mentally handicapped inmates represented 10% of the nation's inmate population as compared with a 3% incidence reflected in the general population.[10] Their investigations

reported, moreover, that about 40% of the inmates in the nation's correctional institutions surveyed had IQs of 85 or below.

Chandler, Shafter, and Coe concluded that the care and treatment of the retarded delinquent is one of the most consistently frustrating problems confronting administrators of both correctional institutions and residential facilities for the mentally retarded.[11] Defective delinquents are reported as being misfits in either setting. In institutions for the retarded they become the aggressive leaders of mischievious and sometimes destructive activities. In correctional facilities they become the followers of brighter and more inventive inmates and are manipulated and used. Both types of facilities are geared to treat the predominant group and the mentally retarded delinquent falls into neither.

Although the correctional institutions of this country have been traditionally underfunded and the recipients of little public interest, in recent years this situation has changed dramatically. Riots such as those which occurred at Attica Prison in New York coupled with the media's reporting of these events have focused public interest on, and concern for, the residents of these institutions. The Commission reports which followed these disturbances indicated consistently that institutionalized populations are composed of the undereducated, underskilled and contain a plurality of individuals with low intellectual capability.[12]

Another factor that has aroused public interest in the field of corrections has been the general concern with law and order. The civil disturbances experienced during the last decade,[13] the rapid expansion of the drug culture,[14] the statistical increase in street crime,[15] and the apparent breakdown of respect for authority underscored the need for a significant investment of federal resources to help finance the administration of criminal justice.

In 1968 the Congress created the Law Enforcement Assistance Administration which, during the first few years of its existence, invested enormous financial resources into the nation's law enforcement agencies.[16] The result was a dramatic increase in arrests which quickly extended court dockets and crowded local and state correctional facilities.[17] The emphasis on crime as a political issue and the allocation of significant federal resources to the administration of criminal justice at the local level precipitated a growing public concern for the prosecution and incarceration of defendants, and a growing awareness that a significant number of these individuals were mentally retarded.

The present study was designed in response to the increasing recognition that mentally retarded individuals are arrested, prosecuted and incarcerated in correctional institutions within Texas. It was thought that if a broadbased study could be implemented to determine the incidence of this problem, and to identify those laws, procedures and practices which adversely

affect the prosecution and incarceration of the retarded offender, the results could be used to develop a broadbased strategy to rectify this situation.

Footnotes

[1]Zeleny, L.O. "Feeble-Mindedness and Criminal Conduct", American Journal of Sociology, No. 38, 1933.

[2]Abrahamsen, D. Crime and the Human Mind. New York: Columbia University Press, 1944.

[3]Vold, G.B. Theoretical Criminality, New York: The Oxford University Press, 1958.

[4]Cooper, C.C. A Comprehensive Study of Delinquents and Non-Delinquents, Portsmouth, Ohio: The Psychological Service Center Press, 1960.

[5]Taft, D.R. and England, R.W. Criminology, New York: The MacMillan Company, 1964.

[6]Schur, D.R. Our Criminal Society, Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1969.

[7]Mannheim, H. Comparative Criminology, New York: Houghton Mifflin Co., 1965.

[8]Ellis, A. and Brancale, R. The Psychology of Sex Offenders, Springfield, Ill.: C.C. Thomas & Co., 1965.

[9]Brown, B.S. and Courtless, T.F. The Mentally Retarded and the Law, Report issued by the National Law Center, Washington, D.C., 1965.

[10]Isaacson, R.L. "When Brains are Damaged," Psychology Today, 1970, 3 (4), 38-40.

[11]Chandler, C.S., Shafter, A.J. and Coe, R.M. "Arraignment, Examination and Confinement of the Mentally Defective Delinquent," American Journal of Mental Deficiency, 63:4, 1959.

[12]Official Report of the New York State Special Commission on Attica, Attica, New York: Bantam Books, 1972.

[13]National Commission on the Causes and Prevention of Violence, Report of the National Commission on the Causes and Prevention of Violence, U.S. Government Printing Office, Washington, D.C., 1969.

[14]President's Commission on Law Enforcement and the Administration of Justice, Narcotics and Drug Abuse, Task Force Report, U.S. Government Printing Office, Washington, D.C., 1967.

[15]Federal Bureau of Investigation, Uniform Crime Report-1972, U.S. Government Printing Office, Washington, D.C., 1973.

[16]Omnibus Crime Control and Safe Streets Act, 1968, U.S. Code, Title 16.

[17]U.S. Bureau of Prisons, National Prisoner Statistics, U.S.Government Printing Office, Washington, D.C., 1960-1970; also, Federal Bureau of Investigation, Uniform Crime Reports 1960-1970, U.S. Department of Justice, U.S.Government Printing Office, Washington, D.C.

[18]Omnibus Crime Control and Safe Streets Act, 1968, U.S.Code, Title 18.

2.0 OBJECTIVES

Because of a variety of inadequacies existing in the administration of justice in the state of Texas, there is a very real possibility that a mentally retarded individual can be arrested and prosecuted for either misdemeanor or felony crimes with the question of his condition of mental retardation never being considered. Although this problem is quantitatively more prevalent in the processing of juvenile offenders, it also exists to a significant degree in the administration of adult justice.

The purpose of this study was to explore a multitude of problems involved in the processing of mentally retarded individuals within the criminal justice system. Specifically, the study was designed to meet the following five objectives:

1. To determine the incidence of mentally retarded individuals committed to state correctional facilities for adults and juveniles in Texas.
2. To determine the incidence of the individuals within the state residential facilities for the mentally retarded who have delinquent or criminal histories.
3. To determine the nature of the relationship between intelligence and various aspects of social and criminal history.
4. To determine the amenability of existing treatment programs within the state's correctional institutions in meeting the needs of the mentally retarded offender.
5. To convene a task force of individuals representing various agencies who deal with the mentally retarded offender and develop a broadbased strategy to enhance the state's capability to rehabilitate mentally retarded offenders.

3.0 ORGANIZATIONAL STRUCTURE OF THE PROJECT

The present study was implemented through a cooperative arrangement between the Texas Department of Mental Health and Mental Retardation and the Institute of Contemporary Corrections and the Behavioral Sciences at Sam Houston State University. The Department of Mental Health and Mental Retardation is responsible for state level outpatient services and residential facilities for the mentally retarded and the mentally ill. The Department has developed unique capabilities for the handling and treatment of delinquent retardates. In 1966, in response to the Governor's Inter-Agency Committee on Mental Retardation Planning, the Department developed a specialized security unit at the Mexia State School for the care and treatment of delinquent retardates within the Department.[1] This has proved to be a successful program and has received national recognition as a strategy for handling the acting-out retardate within residential facilities for the mentally retarded.

The Institute of Contemporary Corrections and the Behavioral Sciences was created by a special mandate from the Legislature and is charged with the responsibility of providing education and research in the field of criminal justice.[2] The Institute has extensive experience in criminal justice research, particularly in the area of corrections.

In order to meet the objectives of the project as outlined above, the design of the study included investigations into

seven areas of concern. First, an intensive review of the literature was conducted to determine the state of the art, both theoretically and empirically, of the relationship between mental retardation and criminality. This review included an analysis of the historical development of theories of mental retardation as well as a critical review of theories of criminal behavior.

Secondly, a review of the legal literature was conducted to determine which provisions in Texas procedural and case law affect the processing of the mentally retarded offender. This review also included a study of comparable laws in other states as well as an investigation of federal case law to determine the effect on the prosecution and incarceration of the mentally retarded offender.

Third, an investigation was conducted to determine the incidence of mental retardation within the Texas Department of Corrections. This study included the identification of retarded individuals admitted to the Department as well as the correlation of various social and criminal history variables with intelligence.

Fourth, an investigation was implemented to determine the incidence of mental retardation among residents of the Texas Youth Council, the agency in Texas which is charged with the responsibility of maintaining state training schools for adjudicated delinquents. This study also included an effort to identify correlations between intelligence and various

aspects of the social and criminal histories of adjudicated delinquents.

Fifth, a study was conducted to determine the incidence of anti-social and delinquent behavior among residents of state residential facilities for the mentally retarded. This study also attempted to determine how delinquent residents of state facilities for the mentally retarded were different from the non-delinquent residents.

Sixth, an investigation was conducted into the handling of the mentally retarded delinquent at the community level. This investigation involved the determination of the incidence of mentally retarded individuals referred to the juvenile courts and the availability of community-based resources and diversionary programs which meet the needs of such youngsters.

Finally, a national survey was conducted to determine the existence of intelligence testing programs in state correctional facilities for adults. This study included a determination of the use of intelligence testing techniques, the types of psychometric measures utilized, and treatment resources available within correctional institutions amenable to the needs of the mentally retarded offender.

The specific methodologies and results associated with each of these investigations is not discussed in this volume since they are separately presented in detail in additional volumes.

However, following this section is a brief resume of the results of each investigation. The reader interested in a more detailed discussion of each research area is directed to the individual reports listed below which comprise the remaining volumes in this series.

Vol. 2 Theories on Criminality and Mental Retardation

Vol. 3 The Mentally Retarded and the Law

Vol. 4 The Mentally Retarded in an Adult Correctional Institution

Vol. 5 The Mentally Retarded in a Juvenile Correctional Institution

Vol. 6 The Delinquent in a State Residential Facility for the Mentally Retarded

Vol. 7 The Mentally Retarded and the Juvenile Court

Vol. 8 A National Survey of the Diagnosis and Treatment of Mentally Retarded Offenders in Correctional Institutions

Footnotes

[1]Governor's Inter-Agency Committee on Mental Retardation Planning, The Texas Plan to Combat Mental Retardation, June, 1966.

[2]House Concurrent Resolution No. 469, State of Texas, July, 1965.

4.0 SUMMARY OF METHODS AND RESULTS

The purpose of this section is to present a summarization of the methods employed and the results derived from the ensuing seven volumes of this work. The order of presentation is the same as the numerical order of the volumes as outlined in the preceding section. Only the more important findings of each study are included in the summaries given in this section. The reader interested in a more detailed discussion of each area is encouraged to refer to the individual volumes that compose the remainder of this report.

4.1 Volume 2: *Theories on Criminality and Mental Retardation*

The first step in this series of studies on mental retardation and the criminal justice system involved a review of the literature of theories on criminality and mental retardation. In order to understand the current posture of attitudes in the field, it was deemed important to first study historical and philosophic trends. This would provide better insight into past attempts to understand the mentally retarded individual and the criminal offender.

This review of the literature indicated quite clearly that prior to the advent of the scientific revolution beginning in the nineteenth century, there was little theoretical effort to discriminate between the mentally retarded individual and the criminal offender. The literature indicates that for the majority of theorists in the field, there was a general equation between criminality and sub-normal intelligence.[1]

It was only within the last century that theorists began to discriminate between criminal behavior and the condition that has become identified as mental retardation. In spite of the plethora of studies published in the first part of this century that suggested that mental retardation predisposes a person to commit criminal acts,[2] there is now a growing awareness that the preponderance of mentally retarded individuals in the criminal justice system may be more an administrative and legal artifact than evidence for a causal relationship. The advances made in recent years in diagnostic testing procedures and statistical accounting mechanisms have greatly broadened the knowledge of the background characteristics of individuals within correctional institutions. The typological theories and univariate causal theories of criminality fostered a century ago are now considered inadequate to explain criminal behavior and are not currently used in the design and administration of contemporary correctional treatment programs.[3]

Modern corrections does not universally stereotype the criminal offender as a by-product of a single causative factor. Theoretical approaches that would explain all criminality on the basis of mental retardation are considered simplistic and are not sensitive to the multivariate nature of society or the psychology of the offender. Correctional treatment advocates see the offender as an individual with a unique set of needs, suggesting that programs be designed more on an individual basis than they have ever been before.[4]

Nevertheless, even in the absence of empirical information on the relationship between mental retardation and crime, prejudicial attitudes still exist within the criminal justice system which view the intellectually handicapped as predetermined to commit criminal acts and poor risks for treatment. These unsubstantiated stereotypes continue to foster nonprogressive attitudes in the field of corrections which mitigate against the proper care and treatment of the mentally retarded offender. The absence of community-based diversionary programs for the retarded delinquent, the insensitivity of the law to the intellectual capabilities of the mentally retarded defendant, and the stereotype of the mentally retarded offender as a poor risk for institutional or community-based treatment programs thwart efforts to provide the proper legal and administrative alternatives in the handling of the mentally retarded offender. However, recent advances in treatment programs by professionals in the field of mental retardation, coupled with the current pressure for more individual treatment of criminal offenders, creates an atmosphere amenable to advances in the care and treatment of the mentally retarded offender.[5] This is underpinned by a growing philosophy within the legal community concerning the right to treatment which, as it becomes defined in appellate cases within the judicial system, should greatly facilitate the handling of the mentally retarded offender.

4.2 Volume 3: *The Mentally Retarded and the Law*

The second study in this series involved a review of statutory and case law affecting the arrest, prosecution and treatment

of the mentally retarded offender. The results of this review indicate that there are several specific aspects of the law which need to be either amended, or eliminated, to assure the proper handling of the mentally retarded offender. Specifically, these include the question of the defendant's competency to stand trial and the use of insanity as a defense in a criminal prosecution.

• Incompetency and Mental Retardation

The law has always provided that a defendant may not be tried if, at the time of the proceedings against him, his mental condition is such that he cannot appreciate the nature of the proceedings against him or participate intelligently in his defense. Although the exact interpretation of this guarantee varies from one state to another, there is certainly no argument with the intent of this legal provision. However, in the case of the mentally retarded defendant, there is significant legal ambiguity concerning how this provision extends to the nature of a mental handicap.[6] In most states, the definition of mental competency involves the test of legal sanity. An examination of the legal definitions of insanity in the various states indicates that none of these definitions is isomorphic with what is termed insanity within the fields of psychiatry and clinical psychology. While tests of legal insanity are limited in the case of a mentally ill defendant, they have even less meaning when they are applied to the mentally retarded defendant.[7]

A number of procedural problems accrue when the question of incompetency is raised in a criminal proceeding involving a mentally retarded offender. Normally, when the issue is raised, the proceedings are suspended and the defendant is committed to a mental institution for an examination. This practice of commitment has developed since the defendant is considered to be a danger to himself or to others. However, this practice of perfunctory commitment for purpose of examination is not sensitive to the defendant's right to bail. In addition, the period of examination in most states is less than immediate and usually takes at least a month or more to be completed. It must be realized that such commitments involve the incarceration of an individual without the provision of due process or the right to bail. It is quite conceivable that the mentally retarded defendant whose competency has been questioned could be examined on an out-patient basis, thus assuring him an adequate exercise of his right to bail.

Another procedural problem involved in the prosecution of a mentally retarded defendant involves the consequences of a finding of incompetency.[8] Normally, when an individual is found incompetent to stand trial, he is committed to a mental institution until such time as he is competent to stand trial. The rationale for his commitment is based upon the supposition that if he is incompetent to stand trial, he is, therefore, a danger to either himself or to others if released to the community. However, in some jurisdictions, the criteria used for his

release from a mental institution involve his competency to stand trial. This difference in commitment and release criteria creates a severe problem in the case of the mentally retarded offender. Unlike the individual who is incompetent to stand trial because he is mentally ill, the condition of mental retardation is considered irreversible. Therefore, the commitment of a mentally retarded offender to a mental institution until he is competent to stand trial, constitutes, in the majority of cases, an indeterminate or lifetime commitment without a finding of guilt. It is quite conceivable that a mentally retarded offender found incompetent to stand trial and committed for his own protection or that of society could, after a period of treatment, function efficiently in the community without the need of further institutionalization. Yet, in some jurisdictions, the sole criteria for release involves competency to stand trial, an unrealistic requirement in the case of an individual whose incompetency is predicated on his condition of mental retardation, which is considered irreversible.

This disparity in commitment and release procedures involving incompetent mentally retarded offenders is considered capricious and does not seem to serve any noteworthy legal or therapeutic purpose. It is recommended, therefore, that the reasons for committing an incompetent mentally retarded individual be the same as those used to determine his release and that these be based upon the degree to which he is a risk to himself or to others, and not upon his competency to stand trial. The

adaption of this philosophy of commitment enhances the capability of the criminal justice system to handle the mentally retarded offender and also assures such individuals equal protection under the law.

• Insanity and the Mentally Retarded

The other issue addressed in this study involved the use of insanity as a defense in the prosecution of a mentally retarded individual. As mentioned previously, the legal definitions of insanity have little in common with the psychiatric definitions of mental illness. Unfortunately, when these legal definitions are extended to the situation of the mentally retarded offender, they have even less utility.

The procedures involved when the issue of insanity is raised in a criminal proceeding and the procedures involved when a finding of insanity has been established are similar to those involving the issue of incompetency. The practice of commitment in order to determine whether the individual is legally insane as well as commitment on a finding of insanity works the same hardship on the retarded defendant as the procedures involved in the case of incompetency. The commitment of a legally insane mentally retarded individual can constitute institutionalization for an indeterminate period without a finding of guilt. In those jurisdictions where the insane defendant is committed because he is considered a danger to himself or to the community, and where release is predicated

upon becoming legally sane, an inescapable dilemma for the mentally retarded offender is created.

• Other Procedural Factors

It must be recognized that the mentally retarded individual, by the very nature of his mental handicap, is limited in his understanding of the procedures involved in the administration of criminal justice. He is probably more susceptible to coercion by the law enforcement community and the prosecutor than a more intellectually endowed individual. Since the majority of criminal cases are handled through plea negotiations as opposed to trial by jury, the probability of the issues of incompetency or insanity being raised in a criminal prosecution of a mentally retarded individual is negligible. The fact that the majority of mentally retarded individuals processed in the criminal justice system tend to be undereducated and poor indicates that the quality of defense they are likely to receive is less than that received by the better educated and those of a higher socio-economic level. These practical considerations indicate that the poor and undereducated mentally retarded defendant is most likely to plea bargain, obviating, therefore, the probability of a defense based upon incompetency or insanity.[9] These factors, coupled with a generalized ignorance within the legal profession as to the nature of the condition of mental retardation and the capacities and limitations of the mentally retarded individual create an adverse circumstance in the prosecution of a mentally retarded individual.

This review of statutory and case law indicates that much could be done to rectify the plight of the mentally retarded individual processed in the criminal justice system. Certainly, attention must be given to current laws involving the definitions and procedures surrounding incompetency and insanity. Current procedures seem to be antiquated in the light of current scientific knowledge concerning mental retardation. In addition to these statutory and procedural changes, efforts must be made to educate trial judges, prosecutors and defense attorneys of the nature of mental retardation and the abilities and disabilities of individuals who manifest this mental handicap.

4.3 Volume 4: *The Mentally Retarded in an Adult Correctional Institution*

The objective of this study was two-fold; to determine the incidence of mentally retarded individuals committed to the Texas Department of Corrections, and to determine the nature of the relationship between intelligence and various aspects of the social and criminal histories of mentally retarded offenders.

At the time this study was designed, the Department of Corrections had custody of approximately 14,500 inmates.[10] It was considered undesirable to determine the incidence of mental retardation within the general prison population since it would be more meaningful to determine the incidence among newly admitted inmates. Pursuant to this objective, a battery of intelligence tests were administered to all newly admitted

inmates received by the Department during December of 1970 and January of 1971. This procedure yielded a sample of 500 male inmates; all females were excluded from the sample.

The intelligence tests administered to the sample included the Wechsler Adult Intelligence Scale (WAIS), the Slosson Intelligence Test, the Peabody Picture Vocabulary Test, the Chicago Non-Verbal Intelligence Test, and the Revised Beta Intelligence Test. In addition to the intelligence measures, two tests of educational achievement were also administered to the sample. These included the Gray, Votaw, Rogers Test and the Wide-Range Achievement Test (WRAT).

A secondary objective of the study involved a correlation of intelligence with various background characteristics of the subjects. This background information included identification and demographic information, juvenile and adult criminal history information, and current commitment information.

Various controls were introduced to insure the internal validity of the study. The primary control involved the testing experience of the individuals utilized to administer and score the intelligence tests. One of the difficulties encountered in determining intelligence of incarcerated individuals is the problem of differentiating between mental retardation and educational and cultural deprivation. To resolve this difficulty, psychologists from the state's residential facilities for the mentally retarded, experienced

in the testing of mentally retarded individuals and skilled in making tne differential diagnosis between educational deprivation and mental retardation, were made available to the project through the Texas Department of Mental Health and Mental Retardation. These psychologists were responsible for the administration of all psychometric measures used in the study with the exception of the Slosson Intelligence Test and two intelligence tests routinely administered by the Department of Corrections.

A secondary problem which required control in this study was the fact that 37% of the sample were inmates of Mexican-American background. To control for linguistic difficulties, one of the psychologists, himself a Mexican-American, tested all Mexican American inmates in their native language, if appropriate.

- Incidence of Mental Retardation

The results of this study indicated that the incidence of mental retardation within the sample varied from 5% to 23% depending upon the measure of intelligence utilized. The lowest incidence was found using the Performance Scale of the WAIS and the highest incidence was found using the Peabody Picture Vocabulary Test. Discounting the Peabody as the most biased measure of intelligence for the inmates sampled, and averaging the incidence of mental retardation using the other measures of intelligence, the estimated incidence of mental retardtion within the sample was 10%. This is a significant

finding since the expected rate of mental retardation within the general population is thought to be approximately 3%.[11] While this finding may suggest that mentally retarded individuals are more predisposed to commit criminal acts, there are several more likely interpretations of the data. A more parsimonious explanation would involve the assumption that since the mentally retarded offender is less intellectually endowed than his more intelligent counterpart, he is more easily apprehended and therefore, is disproportionately represented in the inmate population.

Another interpretation would involve the hypothesis that the mentally retarded offender is over-represented in the inmate population since probation and other diversionary options are less accessible to individuals of lower intelligence. The mentally retarded defendant, having a poorer educational background and lacking in vocational skills, is usually considered a poor risk for probation because of his difficulty in finding steady and productive employment. As a result, it is strongly suspicioned that he is more commonly sentenced to prison vis-a-vis being granted probation.

It was concluded, therefore, that while the incidence of mental retardation among the inmates of the Department was approximately three times higher than the incidence of the general population, this was the result of administrative and legal artifacts within the administration of justice as opposed

to evidence supporting the notion that mentally retarded individuals are more predisposed to the commission of criminal acts.

• Intelligence and Background Characteristics

Information on six background characteristics was gathered on the 500 inmates in the sample. These characteristics included age, race, national origin, citizenship, marital status, and military service record.

No differences were found between retarded and non-retarded inmates with respect to national origin, citizenship, and marital status. However, it was found that mentally retarded inmates tended to be somewhat older, had no military service and, significantly, the majority of the retarded inmates were members of minority groups. While approximately one-half of the non-retarded inmates were Caucasian, approximately 8 of every 10 of the retarded inmates were either Negroes, or individuals of Mexican American background.

The finding that retarded inmates tend to be primarily members of minority groups is not surprising. Other researchers have suggested that the incidence of mental retardation in the general population is substantially higher among the economically deprived and minority groups.[12] Questions of educational and cultural deprivation notwithstanding, the higher incidence of mental retardation among minority groups might possibly be related to the lack of proper pre-natal and post-natal care among the economically deprived and the difference in quality of health care delivery to the poor in general.[13]

• Intelligence and Juvenile Criminal Record

Various comparisons were made between retarded and non-retarded subjects with respect to their prior juvenile record. It is significant to note that the granting of probation, both under state and federal jurisdiction, was more frequent in the case of non-retarded inmates than among the retarded. This supported the hypothesis that the higher incidence of mentally retarded individuals in correctional institutions is in part a result of the denial of probation to intellectually handicapped individuals. It is important to realize in this regard that there is very little empirical evidence indicating the nature of the relationship between intelligence and success or failure on probation. While negative stereotypes seem to exist within the criminal justice system on the prognosis of mentally retarded individuals on probation, these stereotypes are based primarily on hearsay evidence, as opposed to empirically derived information.

Of the other characteristics examined, it was found that non-retarded inmates had more often been incarcerated in juvenile detention facilities and juvenile reformatories than had the retarded subjects. This suggested that the brighter juvenile is processed more frequently through the criminal justice system than the mentally retarded juvenile.

If it is true that brighter juveniles are more frequently granted probation, then it is understandable why they are more frequently processed through the criminal justice system. The mentally retarded juvenile, not being granted probation, is likely to be committed to a reformatory and retained in that

facility until he reaches adult status. Being incarcerated, he does not have the opportunity to be reprocessed as frequently through the juvenile justice system.

• Intelligence and Adult Criminal History

Various statistical analyses were conducted to determine the relationship between intelligence and ten characteristics of the subjects' prior adult criminal histories. No differences were found between retarded and non-retarded inmates with respect to the number of prior jail confinements, suspended sentences, prior commitments to the Texas Department of Corrections, prior commitments to other state prisons, number of prison escapes, or number of parole violations. However, it is significant to note that mentally retarded inmates had received fewer probations under state and federal jurisdictions than had non-retarded inmates. Again, this supports the hypothesis that the significant incidence of mentally retarded individuals in correctional populations is related to the fact that they are not granted probation as frequently as their more intellectually endowed counterparts.

• Intelligence and Current Commitment Information

Various aspects of the inmates' current commitment status were examined to determine whether there was a relationship with intelligence. Comparisons between the offenses committed by mentally retarded and non-retarded inmates indicated little difference between the two groups with respect to most offense categories. However, the data do suggest that non-retarded

inmates are more commonly convicted of murder, robbery, forgery, and drug offenses, whereas mentally retarded inmates seem to be more commonly convicted of rape and burglary. It is difficult to generalize a rationale for these differences in offense patterns. It is probably more significant to note that with the exception of these few offense categories, there is little difference between the types of offenses associated with retarded and non-retarded inmates.

While no differences were found between the two groups in the number of offenses for which they were committed, it did appear that mentally retarded inmates were sentenced to slightly longer periods of incarceration that non-retarded inmates.

• Conclusions

In generalizing the results of this study, several factors seem significant. Quite obviously, the incidence of mental retardation within the Texas Department of Corrections was substantially higher than found in the general population. There is strong evidence in this study to suggest that this is primarily related to administrative artifacts in the criminal justice system and the conclusion that mental retardation predisposes a person to commit criminal acts is rejected.

Although mentally retarded inmates tend to differ with respect to some background characteristics, when compared with

non-retarded inmates, the overwhelming conclusion is that they are more similar than dissimilar. The primary difference between the two groups appears to be in the granting of probation. The evidence clearly suggests that probation is more commonly granted to individuals with higher intelligence who probably have better educational backgrounds and work histories than the mentally retarded, undereducated and underskilled. Since little empirical evidence exists to support the notion that sub-normal intelligence is in itself a negative prognosticator to success on probation, the practice of arbitrarily denying probation to the mentally retarded is dubious and capricious in nature.

Finally, some mention should be given to the care and treatment of the mentally retarded offender by the Texas Department of Corrections. Legally, the Department has no control over the type of individuals committed to its custody. The Department must accept any individual, regardless of his mental status, who is committed by the District Courts of Texas. Similarly, the Department has no control over the release of individuals from the Department since parole authority is vested in the Board of Pardons and Paroles, a separate legal entity from the Department of Corrections. As a result, the Department has, of necessity, developed a broad program of treatment alternatives in attempting to meet the needs of the diverse inmate population.

Examination of the intelligence information gathered in this study clearly indicates that the mentally retarded inmates within the Department could generally be classified as mildly or moderately retarded. The Department rarely receives severely or profoundly retarded individuals and would not be equipped to care for or treat such individuals. Unlike some correctional institutions, the Department does not systematically segregate mentally retarded inmates for placement in specialized units of assignment. Rather, inmates are classified on the basis of age, degree of prior criminal involvement, medical status, and on the basis of whether they are physically weak, i.e., easily victimized by other inmates.

Mentally retarded inmates are not classified as such and are expected to comply with the same rules and regulations as all other inmates in the Department. This philosophy has a normalizing effect for the mentally retarded inmate and is considered to be an advantage in his treatment as opposed to administrative procedures which would label the individual and segregate him into special units of assignment.

The entire Department of Corrections with its 14 prison units constitutes the Windham School District which was created by the Legislature in 1969 and funded under the Minimum Foundation Program. The Department is capable, therefore, of providing special education programs for mentally retarded inmates. In some ways, the treatment program provided by the Department of Corrections is better than that provided mentally retarded

individuals within state facilities for the mentally retarded. While the prison can provide education classes for mentally retarded adults, funding for special education programs in state facilities for the retarded are generally limited to retarded individuals under 21 years of age.

Mentally retarded inmates in some correctional institutions are frequently the most victimized. This situation does not characterize the Texas Department of Corrections. The Department has a superior security system which allows the integration of the mentally retarded offender into the general inmate population without the fear of his being victimized by more intelligent inmates. While it might be questioned why so many mentally retarded offenders are sentenced to the Texas Department of Corrections as opposed to being probated, it must be concluded that, if committed, the mentally retarded inmate is offered a variety of educational and vocational opportunities within the Department. If the mentally retarded inmate takes advantage of these opportunities while in custody of the Department, there is every reason to believe that his experience in prison could prove to be productive and might enhance his capability to make a normal adjustment when he returns to the community.

4.4 Volume 5: *The Mentally Retarded in a Juvenile Correctional Institution*

The purpose of this study was to determine the incidence of mental retardation among juveniles committed to the Texas

Youth Council. A secondary objective was to determine the relationship between intelligence and various aspects of the social and criminal histories of such adjudicated delinquents.

The strategy of this study involved the administration of intelligence tests to juveniles committed to the Texas Youth Council. All newly admitted juveniles received between September 1 of 1969 and August 31 of 1970 were included in the sample which resulted in a total of 1,666 juveniles; 1,491 males and 175 females.

Since the Youth Council routinely administers the Wechsler Intelligence Scale for Children (WISC) to all newly admitted juveniles, IQ information was already available on all subjects in the sample. In addition to the WISC, the Slosson Intelligence Test was administered to a randomly selected subset of the original sample of 1,666 juveniles.

In addition to the gathering of intelligence information, a rather extensive investigation was implemented into the social and delinquency histories of the juveniles in the sample. While some of this information, such as age, race, and sex, was acquired from the computer records of the Youth Council, most of the information was gathered from individual case records. This background information included identification characteristics, drug and alcohol

history, prior delinquency record, and current commitment information.

• Incidence of Mental Retardation

For the purpose of this study, mental retardation was defined as a full-scale WISC IQ of 69 or less. Using this criteria, the data indicate that approximately 12.9% of the males and 16.6% of the females in the sample were mentally retarded. This suggests that the incidence of mental retardation is substantially higher than that found within the general population. If the incidence in the general population is 3%, then the incidence among males in the sample was approximately four times greater.[14] Similarly, the incidence among females was approximately five times greater.

This data could be interpreted to indicate that mental retardation in and of itself predisposes a mentally handicapped youngster to commit delinquent acts. This hypothesis is rejected summarily since it does not consider how juveniles are processed through the juvenile justice system. There is every indication that regardless of the criminal act committed, juveniles of lower intelligence are more likely to be committed to a state training school than are their brighter counterparts. This stems primarily from the fact that the juvenile court is negatively predisposed to placing mentally retarded juveniles on probation. Similarly, while a mentally retarded delinquent might receive better care in a foster home than in a state training school, it is difficult to find families willing to provide

foster care for delinquents, especially a mentally retarded delinquent.

Section 30 of the Texas Youth Council Act requires that if the Youth Council finds a juvenile to be feeble minded, it shall return the youngster to the court of commitment for appropriate disposition.[15] While the Statute does not operationally define "feeble mindedness," it is clear that the legislative intent was to preclude the incarceration of mentally retarded youngsters within the Youth Council facilities. The data indicating that approximately 1 of every 7 youngsters committed to the Youth Council has an IQ below 70 suggests that the Texas Youth Council is receiving youngsters without proper consideration for this legal restriction.

While it would appear that approximately 1 of every 7 youngsters may be inappropriately in the custody of the Youth Council, it must be recognized that the juvenile court has little dispositional flexability in the handling of the mentally retarded delinquent. Probation appears to be used infrequently since it is assumed that the mentally retarded delinquent represents a poor risk for probation. Electing to commit the juvenile to a state residential facility for the mentally retarded affords little benefit inasmuch as there can be a significant waiting period since there are more applications for admission than there is bed space. Additionally, since the disposition of a mentally retarded delinquent is a time critical factor, the state residential facilities for the mentally retarded have not

proved to be a meaningful resource for the juvenile court. In the absence of other alternatives, the juvenile court has frequently, against its better judgement, committed youths to the care of the Youth Council.

To rectify this dilemma, the Youth Council should initiate a program to examine all youngsters of low intelligence within its custody and return any child found to be truly mentally retarded to the committing court. This procedure is in keeping with the law and would have the beneficial effect of focusing public attention to the legal ambiguities in the handling of mentally retarded delinquents.

In addition, the Legislature should carefully examine existing statutes to determine which state agency should be responsible for the care and treatment of mentally retarded delinquents. It is not sufficient, as is the case with the present law, to designate which agencies cannot have custody of the mentally retarded delinquent. The absence of a clear legislative mandate designating agency responsibility creates a legal ambiguity and an administrative void, a situation which mitigates against proper care and treatment for the mentally retarded delinquent.

• Intelligence and Background Characteristics

Mentally retarded and non-retarded males and females were compared with respect to nine background characteristics. No differences were found with respect to age, marital status, and grade achievement level. However, as might be expected, the

preponderance of mentally retarded youngsters, regardless of sex, were minority group members. Approximately 9 of every 10 mentally retarded juveniles, regardless of sex, were either Negro or Mexican-American, while of the non-retarded group, only 6 of every 10 males and 3 of every 10 females were minority group members. This finding was consistent with the results of other studies which suggest that the incidence of mental retardation in the general population is higher among minority group members and individuals from economically impoverished backgrounds.[16]

The data also suggest that mentally retarded youngsters have poorer school attendance records than non-retarded youths, while their academic achievement levels are about comparable. Finally, mentally retarded juveniles, males in particular, come from more financially impoverished families and both mentally retarded males and females tend to come from larger families than their non-retarded counterparts.

- Intelligence and Drug and Alcohol Use

It was interesting to note that the use of alcohol and drugs seems to be peculiar to youngsters of higher intelligence. However, it should be mentioned that it was difficult to determine whether there is a correlation between intelligence and drug use or whether the infrequent use of drugs by youngsters of low intelligence is related to their lower socio-economic level. Quite possibly, drug use is related to financial

capability to procure drugs and, therefore, is a behavior uncharacteristic of financially impoverished mentally retarded juveniles.

• Intelligence and Delinquency History

A number of researchers have alleged that mental retardation, by its very nature, predisposes an individual to commit delinquent acts.[17] In order to test this hypothesis, an extensive effort was made to compare mentally retarded and non-retarded juveniles with respect to various characteristics of their delinquency history. Of the ten aspects of delinquency history examined, it is important to note that mentally retarded delinquents are more similar to their non-retarded counterparts than they are dissimilar. In comparing the number of times referred to juvenile court, number of detentions, suspended commitments, and out-of-state commitments, there appears to be little difference between the two groups.

The one salient differentiating characteristic appears to be the granting of probation. It would appear that youngsters with lower intelligence are granted probation less frequently than their more intelligent counterparts. It is strongly suspicioned that this difference is based on an assumption by the juvenile court that mentally retarded individuals have a poor prognosis for success on probation. In the absence of empirical evidence on the relationship between intelligence and probation, such an assumption tends to be arbitrary and

actually may adversely affect the treatment of the mentally retarded delinquent.

- Intelligence and Current Commitment Information

In comparing mentally retarded and non-retarded juveniles with respect to various aspects of their current commitment, it must be concluded that they are more similar than dissimilar. The one differentiating characteristic seems to be in the number of codefendants involved in the offense for which they were committed. It would appear that non-retarded juveniles more frequently commit delinquent acts with other juveniles than do mentally retarded youngsters. It is difficult to theorize why this difference exists. One explanation might be that mentally handicapped juveniles have low peer group status with the result that brighter youngsters avoid involvement with youths of lower intelligence in the commission of delinquent acts.

- Conclusions

In reviewing the information gathered in this study, several conclusions seem justified. The incidence of mentally retarded males and females within the custody of the Youth Council is significantly higher than would be expected based upon the rate in the general population. While this may suggest that mentally retarded youngsters are more disposed to commit delinquent acts, this hypothesis is rejected. The interpretation given the data in this study is that the high incidence of mentally retarded youngsters in the Youth Council is related to the absence of diversionary options available to the juvenile court. This is

supported by the fact that the number of probations granted mentally retarded youngsters is substantially less than that granted non-retarded youngsters.

The second conclusion which may be drawn from this study is that the Youth Council is probably in violation of the Youth Council Act since it specifically requires the return of "feeble minded" youngsters to the committing court for appropriate disposition. The preponderance of youngsters of low intelligence within the Youth Council facilities suggests that a careful diagnostic program should be initiated to determine which youngsters are in fact mentally retarded and, upon such a finding, should be returned to the court forthwith. The policy of committing mentally retarded juveniles to the Youth Council simply because there are no alternative resources not only perpetuates a practice which is legally questionable, but also thwarts any impetus to create proper dispositional resources.

Finally, it should be mentioned that in comparing the social backgrounds and prior delinquency records of mentally retarded and non-retarded juveniles, they appeared to be more similar than dissimilar. This is an important consideration since overlabeling of the mentally retarded delinquent can have a very debilitating effect on the individual and create negative stereotypes which mitigate against proper care and treatment. The fact that the mentally retarded delinquents examined in this study seemed to be more similar to their brighter counterparts

than dissimilar should discourage the negative labeling of the mentally retarded delinquent and the development of theories which would present the mentally retarded delinquent as an individual who is different in kind from his more intellectually endowed peers.

4.5 Volume 6: *The Delinquent in a State Residential Facility for the Mentally Retarded*

The purpose of this study was to determine the extent of anti-social behavior and delinquency history among new admissions to state residential facilities for the mentally retarded in Texas. The primary strategy in this study involved the identification of all newly admitted retardates to the Texas Department of Mental Health and Mental Retardation during 1970 who, if they had remained in the community, could possibly have been arrested and processed in the criminal justice system for delinquent or criminal behavior.

Many of the individuals admitted to state residential facilities for the retarded would not, by the very nature of their disability and attendant physical handicaps be processed through the criminal justice system. It was theorized that individuals who were nonambulatory, with IQs below 35 and with profound sensory and physical disabilities would, even if apprehended in the commission of a criminal act, be identified as mentally retarded and diverted from the criminal justice system. Similarly, mentally retarded individuals below the age of 10 could not, by law, be processed in the criminal justice system.[18]

All new admissions to the Department during 1970 were screened using tne aforementioned criteria resulting in a sample of 430 subjects; 362 juveniles and 68 adults.

Two procedures were developed to define delinquency among the subjects in the sample. The first procedure involved determining whether the subjects had been formally processed either in the juvenile or adult criminal justice system prior to admission to a state residential facility. This included gathering information on such variables as number of arrests, nature of prior offenses, number of adjudications, dispositions, and so forth.

Since mentally retarded individuals may commit delinquent or criminal acts while in a state residential facility, yet are not usually prosecuted for such behavior, another procedure was developed to identify the incidence of anti-social or delinquent acts while in residence at a state facility. This included identification of behaviors which, though not criminal if committed by an adult, could be construed as manifestations of anti-social behavior constituting incorrigibility as defined in the Texas Juvenile Code.[19] This included such behaviors as aggressiveness, petty thievery, lying, and others which, while not criminal in nature, are disruptive to the normal routine of a residential facility and characterize the behavior of the defective delinquent in a residential population.

• Incidence of Anti-Social Behavior

The degree of anti-social institutional behavior manifested by the subjects varied greatly as a function of the type of behavior analyzed. It was also evident that there were differences in the types of anti-social behaviors manifested when comparing males with females and juveniles with adults. The most common behavior demonstrated by the subjects, regardless of age or sex, was temper tantrums. This behavior was observed in at least 1 of every 4 of the individuals studied and most commonly identified in juvenile males. Another common behavior was lying which characterized the behavior of approximately one-third of the juvenile males and was frequently found among juvenile females and adult males. Other common anti-social behaviors involved masturbation, particularly among males, and the manifestation of hostile acts or attitudes which seemed quite common among juveniles, regardless of sex.

Of particular interest to this study was assaultive behavior which characterized 1 of every 4 of the juvenile males studied and approximately 1 of every 7 of the juvenile females. While this characteristic seemed to be quite prevalent among younger individuals, it was relatively uncharacteristic of adults, regardless of sex. It was interesting to note in this regard that assaultiveness was primarily directed at other patients, although in some cases, the assaultive behavior was directed towards staff members. Other common anti-social behaviors involved theft, heterosexual acting-out, and sexual aggressiveness of an assaultive nature.

In summarizing the incidence of anti-social institutional behavior, the data suggests that this was a significant problem among new admissions to state facilities for the retarded. Although some of the anti-social behaviors are minor in nature, others fall into the scope of criminal behavior as defined in either the Juvenile Code or the Penal Code of the state of Texas. Questions concerning the criminal culpability of these individuals notwithstanding, the manifestation of such behaviors is disruptive and can negatively affect the administration of state residential facilities. It must be realized that state residential facilities are not correctional institutions, nor is the staff of these institutions trained in security and custody procedures, as would be the staff of a correctional facility. Certainly, the fact that the residents have been diagnosed as mentally retarded reduces the degree of culpability for such behaviors in light of the administrative philosophy commonly identified with residential facilities for the mentally retarded. Nonetheless, the problem of how best to deal with the anti-social retardate, and whether to segregate him from other residents for his own protection or for the welfare of others are difficult problems. The development of special facilities for the acting-out retardate is one solution for the problem. Yet, great care must be exercised in assuring that the civil liberties of these individuals are not violated by such segregative policies.

- Delinquency History

The secondary aspect of this study involved investigation into the prior delinquency and criminal records acrued by the

subjects prior to their admission to state residential facilities for the mentally retarded. The data gathered in this regard are somewhat unreliable since the Texas Department of Mental Health and Mental Retardation does not routinely assemble criminal histories on its residents. Therefore, the data indicating the existence of such criminal activity prior to admission are, at best, lower bound estimates of the true incidence.

The data on the subject's criminal histories indicate that no more than 10% had had any prior contact with the criminal justice system. While some, particularly male juveniles, had been referred to juvenile authorities prior to admission, very few of the subjects had been processed through either the juvenile or adult criminal justice system.

When comparing the incidence of institutional anti-social behavior and prior contacts with the justice system an interesting question arises. How is it possible for a substantial number of the subjects to manifest anti-social and delinquent behavior while within the facility and, yet, have negligible prior involvement with the criminal justice system? This discrepancy might be explained in several ways. First, it should be recalled that the majority of the subjects in the sample were between 10 and 21 years of age. Since no individual under the age of 10 years of age can be held accountable for his actions before the law, the majority of the subjects had not been of a legal age for any extended period of time. This diminishes the possibility of their becoming involved in the juvenile justice system.

A second way of explaining the disparity is based on the assumption that once an individual becomes involved with the criminal justice process, the opportunity for his admission to a state residential facility for the retarded is diminished. In other studies conducted by the authors, it is quite clear that if a mentally retarded juvenile is referred to the juvenile court, he is more likely to be committed to a training school for delinquents than diverted to residential facilities for the retarded. Similarly, moderately retarded adults arrested for criminal acts usually resolve their cases through plea negotiations with the issue of legal insanity or incompetency not normally being raised. As a result, probably a significant number of retarded adults are prosecuted as normal criminals and only infrequently diverted to state facilities for the retarded or the criminally insane.

- Conclusions

Several conclusions can be drawn from the data gathered in this study. The investigation into the incidence of anti-social institutional behavior strongly suggests that a significant number of new admissions do manifest behavior which is probably disruptive to normal administration and which constitutes security problems within state residential facilities. The surprisingly high incidence of such behaviors suggests that residential facilities need to develop specialized programs and residential constraints to care for and treat the delinquent retardate. The development of such procedures is problematic since residential facilities are not correctional institutions

and there are legal ambiguities concerning the extent of constraint and control a residential facility could exert in the case of an acting-out retarded individual. A second factor which compounds the problem is the fact that the staff associated with residential facilities is not normally trained in security and correctional practices. Their backgrounds are primarily in the social sciences and the lack of such training could mitigate against their proper handling of such individuals.

The second conclusion that can be drawn from this study is that very few mentally retarded individuals who have had previous involvement in the criminal justice system are among individuals admitted to state facilities for the retarded. Other studies conducted by the authors indicate that approximately 10% of adults committed to the state's prison system and approximately 14% of juveniles committed to the state's training schools for delinquents are mentally retarded. These studies clearly indicated that the majority of retarded delinquents and mentally handicapped adult offenders are committed to state correctional institutions and not to state facilities for the mentally retarded.

Finally, it must be concluded that mentally retarded individuals with delinquent tendencies can be found both within state correctional institutions and within residential facilities for the retarded. However, the delinquent retardates found in each type of institution tend to differ from each other. Those found in correctional institutions tend to be more mildly retarded and have more extensive criminal histories. Those found in state

residential facilities for the mentally retarded tend to be more profoundly retarded and have had little prior involvement with the criminal justice system.

The problem as to which agencies could best handle different types of mentally retarded delinquents is a complex issue and requires an examination and re-evaluation of the criminal law and the administrative practices of criminal justice agencies and agencies concerned with the mentally retarded. Certainly, no mentally retarded individual who is not aware of the consequences of his actions and cannot discriminate between right and wrong should be placed in a correctional facility. By the same token, however, some mildly retarded offenders are criminally culpable under this definition and it is not legally or theoretically inconsistent to provide for their care and treatment within a correctional institution.

4.6 Volume 7: *The Mentally Retarded and the Juvenile Court*

The purpose of this study was three-fold; to determine the incidence of mentally retarded juveniles adjudicated by the juvenile court in a metropolitan county in Texas, to survey the attitudes of juvenile probation officers concerning various aspects of the problem of dealing with the mentally retarded delinquent, and to determine the availability of community resources for the care and treatment of mentally retarded delinquents.

In order to determine the incidence of mentally retarded juveniles being referred to the juvenile court, all juveniles who were adjudicated in Jefferson County, Texas, between September 1 and December 31 of 1970 were administered the Slosson Intelligence Test. In addition, their case folders and police records were reviewed and information concerning their prior delinquency history and family backgrounds was assembled.

In order to determine the attitude of juvenile probation officers toward the mentally retarded delinquent, questionnaires were submitted to juvenile probation officers working in Harris, Dallas, Bexar and Travis Counties which contain the cities of Houston, Dallas, San Antonio and Austin, respectively. These four counties have a combined population of 4.1 million people which represents 37% of the population of the state of Texas.

The third objective of the study was achieved by conducting interviews with the Directors of eleven community-based programs within Jefferson County which theoretically were in a position to provide services to the mentally retarded delinquents.

- Incidence of Mental Retardation

Between September 1 and December 31 of 1970, 48 juveniles were adjudicated by the Jefferson County Juvenile Court. This represented 35% of all adjudications in the county during 1970.[20] The Slosson Intelligence Test was administered to all 48 youngsters and the results indicated that 15 (31%) had IQs less than 70. Another 31% had IQs between 70 and 89 while 37% had IQs of

90 or more. These data would suggest that the incidence of mental retardation among juveniles adjudicated in Jefferson County is approximately 5 times greater than would be expected based on the percentage in the general population. Considering the IQs of all 48 youngsters, it is evident that the entire distribution is skewed to the right with the preponderance of youngsters having IQs less than 100.

• Family and Criminal History Background

The social and criminal history records of the 48 juveniles in the sample were perused and comparisons made between the mentally retarded and non-retarded youngsters with respect to a variety of background characteristics. For purposes of statistical comparison, juveniles with IQs of less than 70 were identified as retarded, whereas juveniles with IQs of 70 or more were included in the non-retarded group.

Examination of the data on family status indicated that the incidence of broken homes was greater among the mentally retarded subjects than the non-retarded. The majority of the mentally retarded subjects were living with their mother only at the time of their adjudication.

As might be expected, the income level of the families of the mentally retarded subjects was substantially lower than for non-retarded subjects.[21] Specifically, 67% of the mentally retarded juveniles came from families where the yearly income was less than $3000 a year.

An attempt was made to determine the dependency of the juveniles' families on public assistance. As might be expected considering the data discussed above, the families of the mentally retarded youths were more frequently receiving assistance from the Department of Public Welfare than were the families of the youths in the non-retarded group. Approximately two-thirds of the mentally retarded youngsters' families were receiving aid to dependent children and other forms of public welfare.

It is interesting to note that the mentally retarded juveniles tended to have been first arrested at an earlier age than the youngsters in the non-retarded group. Yet, the retarded youngsters had been arrested fewer times prior to adjudication than had the non-retarded group. The comparison of these two findings seems to suggest that while the retarded youngster comes into confrontation with the criminal justice system at an earlier age, he is more quickly adjudicated than his non-retarded counterpart. This reinforces the hypothesis that the juvenile court is less lenient with the retarded delinquent, viewing him as having a poorer prognosis for community-based treatment. This result may also stem from the fact that the home stability of the families of mentally retarded delinquents seems to be substantially less than the non-retarded delinquents. More frequently, the retarded youngster comes from a broken home which is more financially impoverished than his non-retarded counterpart.

Comparisons were made between the types of crimes committed by the mentally retarded and non-retarded delinquents. There appears to be little difference in the nature of the crimes committed; however, victimless crimes, specifically drug related offenses, seem to be peculiar to the more intelligent delinquent. This could stem from the fact that the mentally retarded delinquent comes from a more impoverished background and may lack the financial resources needed to procure drugs.

All 48 juveniles included in this study were adjudicated and placed on probation in Jefferson County. One year after their adjudication, a follow-up study was conducted to determine whether one group had been more successful than the other. The results indicated that approximately two-thirds of the mentally retarded delinquents had failed on probation and were subsequently committed to state training schools administered by the Texas Youth Council. The failure rate among non-retarded juveniles was 50%. Although this disparity may suggest that mentally retarded delinquents are poorer risks for probation, one must realize that the Jefferson County Probation Department does not have differential caseload management techniques for mentally retarded youngsters. The higher failure rate among the mentally retarded delinquents might be a function of the fact that probation management techniques do not take into consideration the special needs and disabilities of the retarded delinquent. The absence of community resources coupled with the lack of special caseload techniques may actually impose an additional hardship on the retarded delinquent and predetermine his failure while on probation.

- Juvenile Probation Officers' Attitudes Concerning the Mentally Retarded Delinquent

In order to determine the attitudes among juvenile probation officers toward the mentally retarded delinquent, a questionnaire was sent to probation officers working in four metropolitan Texas counties. This questionnaire included items related to intelligence and anti-social behavior, the prognosis of the mentally retarded delinquent in community-based programs, the validity of IQ tests, the availability of community resources, and other relevant questions.

Approximately 8 of every 10 juvenile probation officers surveyed indicated that they thought mentally retarded youngsters had a greater propensity for criminal behavior than more intellectually endowed juveniles. Similarly, 7 of every 10 of the probation officers felt that mentally retarded delinquents were de facto poor risks for probation. These attitudes are unfortunate, since they discourage experimentation within community-based programs for the mentally retarded. In all likelihood the same attitudes explain why probation is less frequently granted to the mentally retarded.

The probation officers were queried on the utility of intelligence tests for determining mental retardation. It is interesting to note that the respondents were about evenly divided on the utility of intelligence tests. This difference in attitude probably stems from both an inadequate understanding of the limitations of psychometric techniques, as well as a less than adequate understanding of the nature of mental retardation.

The respondents were asked to evaluate the state's residential facilities for the mentally retarded as a resource to the juvenile court. Eight of 10 indicated that state residential facilities offered no resource at all for the mentally retarded delinquent, and 7 of 10 indicated a general unawareness of other state level resources that could be used in the care and treatment of the mentally retarded delinquent, e.g., foster home placement, rehabilitation, etc.

The questionnaire included an item to determine the extent to which mental retardation created peculiar problems for the juverile probation officer. Ninety-eight percent indicated that the incidence of mental retardation was sufficiently great to justify the creation of special programs for the care and treatment of mentally retarded delinquents. This is a significant finding since the state does not presently have, either legally or administratively, any specialized provisions for the care and custody of mentally retarded offenders.

Finally, the juvenile probation officers were asked to list in rank order the problems they encountered in dealing with the mentally retarded delinquent. The majority indicated that the major problem emanated from the lack of community resources for the diversion of mentally retarded individuals from the juvenile justice system. The second most commonly indicated problem was the uncooperative attitude manifested by the parents of the retarded delinquents. The third most commonly cited difficulty was the fact that the mentally retarded delinquent frequently

has difficulty in appreciating the consequences of his delinquent acts and understanding the behavioral expectations placed on him by society.

In summarizing these results, it would appear that juvenile probation officers view the prognosis for the mentally retarded delinquent as poor. They appear to be unfamiliar with the nature of the condition of mental retardation and view the state residential facilities for the mentally retarded as offering little assistance to the juvenile court. The officers surveyed indicated that the most significant problems in dealing with the mentally retarded delinquent involved the lack of community resources and diversionary programs, the uncooperative attitude of parents, and the delinquent's limited capability to understand the consequences of his behavior and society's behavioral expectations of him.

- Community-Based Resources

The third objective of this study was accomplished by conducting indepth interviews with the directors of a variety of community-based programs deemed to be in a position to meet the needs of the mentally retarded delinquent at least partially. Interviews were conducted with various medical facilities, the Neighborhood Youth Corps, the Vocational Rehabilitation Commission, several community counseling services, and various agencies that provide direct services to mentally retarded individuals.

The results of these interviews yielded several interesting findings. Agencies which normally deal with the mentally retarded are extremely reticent to extend their services to the juvenile delinquent. They alleged that the incorporation of such individuals into their programs would prove to be disruptive and counterproductive. They indicated that other agencies would be in a better position to deal with the delinquent since their own primary objective was dealing with the non-delinquent mentally retarded.

Similarly, agencies that provided services to delinquent youngsters were reticent to include mentally retarded individuals within their programs. They alleged that individuals with such low intellectual capability would not be able to meet the program requirements of their agency. They viewed the mentally retarded delinquent as having such a poor prognosis for success that they would jeopardize the success of the agency's current programs.

The results of these interviews indicate that agencies which normally deal with mentally retarded individuals reject the delinquent youngster, while agencies that normally deal with delinquent youngsters reject the mentally retarded individual. In effect, when one balances the assets and liabilities of the community-based programs in Jefferson County, it is quite evident that if an individual has the dual handicap of mental retardation and delinquency, there is virtually no community-based opportunities available. This is indeed a tragic

situation since it predetermines the failure of the mentally retarded delinquent and creates a situation in which the only treatment alternative involves commitment to a state training school for juvenile delinquents.

4.7 Volume 8: *A National Survey of the Diagnosis and Treatment of Mentally Retarded Offenders in Correctional Institutions*

The purpose of this study was to examine the intelligence testing practices of U.S. correctional agencies, the treatment programs available for mentally retarded offenders, and the frequency with which such offenders are currently entering the fifty states' and the District of Columbia's correctional systems. Questionnaires concerning the diagnosis and treatment of mentally retarded offenders were disseminated to the correctional systems of all fifty states and returns were received from all but five.

- Use of Intelligence Tests

The prevalence of intelligence testing in correctional institutions proved to be much higher than expected after a review of related literature and studies in the field of the retarded offender. At least 84% of the responding state correctional systems provided the surroundings and relatively formalized diagnostic setting necessary for obtaining reliable test results. Fully 90% of the correctional systems employed psychometric probes in order to determine the intelligence level or intellectual capacity of their prisoners as they were received. Over

one-half used batteries of two or more tests in order to insure definitive identification.

Notwithstanding arguments regarding the relative value of the IQ test in determining intelligence, the vast majority of correctional administrators demonstrated their desire to use such tests in order to identify those members of their populations with intellectual abnormalities. Additionally, the findings are utilized by more than 40% of these agencies in over one-half of their initial classification decisions.

• The Prevalence of the Mentally Retarded Offender

The second area of inquiry was related to the frequency with which adult, male retarded and borderline retarded offenders are currently being admitted to state correctional facilities. Essentially, this portion of the study was designed to determine the magnitude of the problem associated with retarded offenders.

Of the approximately 39,000 adult, male prisoners admitted to the 26 states having available statistics 4.1% were identified as mentally retarded and 13.9% were identified as borderline retarded. A total of 6,519 offenders or 18.0% were listed as scoring less than 85 on the WAIS or equivalent scores on comparable examinations.

While a direct correlation cannot be drawn between these admissions and the population findings of Brown and Courtless, a reasonable comparison is in order.[22] The 18% with IQs below

85 indicates a significant decrease if it can be assumed that the Brown and Courtless 40% figure can be generalized to the admissions during the 1963 reporting period. Although not directly supportable in this study, several plausible rival hypotheses are available to explain the change. Primary among these are an increased recognition of the retarded offenders' legal rights, and a reorientation of court thinking in the area of their degree of criminal responsibility. Either of these in combination with several others, developed as a result of the increased national awareness of the problem of mental retardation in the United States during the last decade, provide an explanation, and each would serve easily as the subject of a research study in themselves.

- Correctional Treatment

The degree to which special treatment efforts are afforded the retarded offender also demonstrated a significant downward movement from prior levels. While Brown and Courtless found that 56% (n=75) of all responding institutions did not provide any specialized programs in 1963, this study revealed that slightly over 10% (n=4) of the state systems responding did not provide any form of such treatment.[23] These programs were found to be extended to the borderline retarded offender in more than three-fourths of the responding systems. The major areas of treatment emphasis remained in the field of education. This latter finding is, in all probability, due to the fact that educational results are more readily demonstrated (by test scores or educational achievement) than those of psychological

or vocational rehabilitation; and, therefore, education received more emphasis by correctional administrators.

In responding to questions regarding educational treatment programs, Mr. William Sweet, Special Education Supervisor for the Texas Department of Corrections' Windham School District, voiced a significant explanatory comment which was echoed, at least in part, by the answers on several other questionnaires returned. His comment was, essentially, that although an educational (treatment) program may not be specifically labeled as being for the retarded offender, it may well be effective in his education and rehabilitation. If special education programs are well designed and based on a principle of individualized learning, they may well be effective across a broad spectrum of intelligence levels.

The manner in which treatment programs are administered, be it group or individual activities, would thus appear to be of less importance than the degree to which the program is oriented toward, or adaptable to, the particular person's needs.

Based on Judge Bazelon's remarks that the major question should remain whether or not the inmate actually is afforded the opportunity for reasonably accepted forms of treatment, no further inquiry was made into the question of program effectiveness. The primary aim of the investigation, thus, remained and was answered in light of how many special programs were made available in how many systems.

• Potential Impact of a Major "Treat or Release" Decision

A major portion of state correctional systems reportedly have taken at least minimal steps during the last ten years to insure that the retarded offender is provided acceptable treatment. The impact of a "treat or release" edict would thus appear significantly less than it would have been in the early 1960s. Only four of the states responding to this survey have no programs for mentally retarded inmates. Tentative and unpublished admission statistics obtained from the national Law Enforcement Assistance Administration for year 1970 indicate that these institutions have custody of only one-tenth of the estimated number of mentally retarded individuals received by state level correctional systems during that year. The impact of a decision that correctional systems must provide treatment for the mentally retarded offender or release him from confinement would, therefore, appear to be much less than in years past.

In summary, the mentally retarded offender is now, more than ever before in the history of corrections, recognized as a significant and important element of the prison population that must be identified and afforded effective treatment commensurate with his mental capacity and individual needs. Planned innovation, based on a need formally recognized in the mid-1970s has, in this instance, significantly reduced the probability of the need for adaptive innovation as a result of a forced judicial resolution of the question of retarded inmates' right to treatment.

Footnotes

[1]Furber, B. Mental Retardation and Its Social Context and Social Consequences, Houghton Mifflin Co., Boston, 1968.

[2]Zeleny, L.O. "Feeble-Mindedness and Criminal Conduct", American Journal of Sociology, No. 38, 1933.

[3]President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society, U.S. Government Printing Office, Washington, D.C., 1967.

[4]Ibid. (c.f. also Wickersham Commission Reports, Number 9 Report on Penal Institutions, Probation and Parole, George W. Wickersham, Chairman, U.S. Government Printing Office, Washington D.C., 1931).

[5]Allen, R.C. Legal Rights of the Disabled and Disadvantaged, U.S. Department of Health, Education and Welfare, Washington, D.C. 1969.

[6]Brown, B.S. and Courtless, T.F. The Mentally Retarded Offender, U.S. Government Printing Office, Washington, D.C., 1971.

[7]Dusky v. United States, 362 U.S. 402, 8 S.Ct. 788, 4 L.Ed. 2d 824 (1960).

[8]Jackson v. Indiana, 255 N.E. 2d 515 (1970).

[9]Pate v. Robinson, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed. 2d 815 (1966).

[10]The Texas Department of Corrections, Annual Statistical Report-1970, Huntsville, Texas, 1971.

[11]Coleman, J.C. Abnormal Psychology and Modern Life, Scott, Foresman and Co., 1972, p. 561.

[12]President's Committee on Mental Retardation, The Decisive Decade, U.S. Government Printing Office, Washington, D.C.

[13]Ibid.

[14]Coleman, J.C., op.cit.

[15]Vernon's Texas Civil Statutes, Art. 5143d, Sec. 30.

[16]President's Committee on Mental Retardation, op.cit.

[17]Zeleny, L.O., op.cit.

[18]Vernon's Texas Civil Statutes, Art. 2338, Sec. 3.

[19]Ibid.

[20]Jefferson County Juvenile Probation Department, Annual Statistical Report-1970, Beaumont, Texas, 1971.

[21]President's Committee on Mental Retardation, op.cit.

[22]Brown, B.S. and Courtless, T.F., op.cit.

[23]Ibid.

5.0 ASSUMPTIONS CONCERNING THE MENTALLY RETARDED OFFENDER

The processing of mentally retarded individuals through the criminal justice system creates a variety of problems for which there is no single unique solution. The problems are compounded by the lack of agreement concerning the definition of mental retardation,[1] whether individuals so diagnosed should be held accountable for their criminal actions,[2] the lack of scientific evidence as to the relationship between intelligence and prognosis for treatment, and legal and administrative ambiguities as to which local and state agencies are responsible for the care and treatment of the mentally retarded offender.[3] Thus, any strategy directed toward rectifying the difficulties associated with the mentally retarded offender must encompass wide-ranging recommendations which focus on changes in procedural law, penal law, administrative policies of criminal justice agencies and health agencies, the development of community resources, public education, and research.

It would seem appropriate therefore, to develop a foundation of assumptions concerning the mentally retarded offender prior to presenting a system of recommendations focused on the care and treatment of such individuals. This is critical since the assumptions made about the nature of mental retardation and its relationship to crime directly affect the posture of recommendations which are developed.

5.1 Mental Retardation and Criminal Behavior

A primary assumption made in this study is that there is no necessary or causal relationship between mental retardation and the commission of criminal acts. A number of researchers, particularly in the first part of the century, concluded that since a disproportionately large number of mentally retarded individuals were found in prisons and jails, there was a causal relationship between mental retardation and the commission of criminal acts.[4] This theoretical position is not acceptable since it emanates from a lack of understanding of the criminal justice process and tends to be the least parsimonious explanation of the significant incidence of mentally retarded individuals within correctional populations.

The evidence gathered in this investigation strongly suggests that the prevalence of mentally handicapped individuals in correctional institutions is related to capricious procedures in the administration of criminal justice. For example, given the complexity of urban society and contemporary policies and procedures governing school attendance, it is quite understandable that the borderline mental defective experiences significant difficulty in a normal school environment. Special education programs are typically directed at the more significantly retarded, leaving the borderline mental defective in an educationally gray area. Subsequent truancy, a delinquent act in most jurisdictions, is not surprising and early contact with the criminal justice system is frequently a matter of course.

For the mentally retarded youngster, particularly from a minority group in a culturally impoverished environment, the opportunity for involvement in delinquent or criminal activity is significantly high.[5] The fact that such youngsters, when referred to the juvenile court, are committed to state training schools is evidence of the lack of alternative resources more than an indication of any causal relationship between intelligence and criminal activity. In essence, the theoretical position taken here is that the incidence of mentally handicapped individuals in correctional institutions is an artifact of inadequate administrative policies and diversionary resources within the criminal justice system, coupled with inadequate educational and social opportunities within the community. This is an important distinction because if it is assumed that mental retardation, a condition theorized to be irreversible by its very nature, precipitates criminal behavior, there would, therefore, be virtually no positive prognosis for the rehabilitation of the mentally retarded offender. However, if it is assumed that the high incidence of retarded individuals in correctional institutions is a function of environmental deficiencies, and legal and administrative insufficiencies, then their treatment and subsequent rehabilitation is a realistic goal.

5.2 Mental Retardation and Criminal Culpability

The second assumption made in this study is that mental retardation itself does not automatically relieve a person of criminal culpability. Although the nomenclature "mental retardation" implies a dichotomous condition, the fact is that intellectual

endowment is a continuous phenomenon and even among retarded individuals some are better able to cope with the environment than others. Certainly, some individuals identified as mentally retarded are able to discriminate between the right and wrong, have sufficient intellectual acumen to understand the nature of the proceedings in a criminal prosecution and are, therefore, competent before the law. However, depending upon the degree of severity, some mentally retarded individuals should not be held culpable for their acts since they cannot discriminate the criminality of their behavior. Such individuals would be at a total loss to understand their basic legal rights or adequately participate in their own defense in a criminal prosecution.

All the recommendations made in this study regarding the amendment of legal provisions governing insanity as a defense and incompetency regarding retarded individuals are made with the recognition that these determinations must be made on an individual basis. The researchers reject the notion that the diagnosis of mental retardation is synonymous with incompetency and inculpability before the law.

5.3 Mental Retardation and Incarceration

The third assumption concerns the commitment of a mentally retarded person to a correctional institution. As mentioned above, the criminal culpability and legal competency of mentally retarded individuals varies with the degree of intellectual impairment. Individuals who are adjudged to be both legally competent and criminally culpable, though low in intellectual

endowment, can be committed to a correctional institution without doing any injustice to the law or to the concept of mental retardation. Others, certainly, who do not meet these legal tests should not be so committed. The point to be stressed is that the ultimate goal of society should be the care and treatment of the retarded offender and his subsequent integration into the community as a productive citizen. If this can be best achieved in some cases by commitment to a correctional institution, then this is not an inappropriate decision. For others, commitment to a facility for the retarded, or care and supervision within a community-based program would represent the best alternative.

The bipolar theory that would have only criminals in correctional institutions and retarded individuals in facilities for the mentally retarded is a position that is insensitive to the realities of the administration of justice, current procedural law, and to the plight of the mentally retarded offender.

5.4 Mental Retardation and the Criminal Justice System

A cursory examination of the manner in which the criminal justice system handles the mentally retarded offender might suggest that the system is callous to the needs and capabilities of the mentally retarded individual. The present study rejects this naive conclusion because an indepth analysis of the criminal justice process would indicate that the mishandling of the retarded offender emanates more from an ignorance of the nature of mental retardation than from an indifferent or callous attitude towards

their needs and abilities. The recommendations developed in this study are based on the assumption that there is a rather widespread and pervasive ignorance on the part of the law enforcement community, prosecutors, defense attorneys, judges and correctional personnel of the nature of mental retardation. Recommendations that would castigate or impugn the motivations, procedures and policies of the criminal justice system do little to rectify the problem and tend to draw people apart, vis-a-vis arousing a consensus of agreement for the purpose of resolving the problem. Therefore, many of the recommendations contained herein are specifically directed at educating professionals, both within the criminal justice process and the field of mental retardation, as to the problems and difficulties encountered in the arrest, prosecution and incarceration of the mentally retarded offender.

5.5 Diagnosis of Mental Retardation

A fifth assumption concerns the diagnosis of mental retardation. In the studies reported in subsequent volumes, the mentally retarded offender has been defined as an individual with an IQ below 70. This is an operational definition which has scientific and statistical utility, but is not assumed to be isomorphic with the condition of mental retardation. It is recognized, also, that some individuals will perform poorly on an intelligence test because of linguistic difficulties, poor educational backgrounds, inability to take tests, or because the test itself contains items which are culturally biased. Therefore, it is assumed that some of the individuals in this study diagnosed for statistical purposes

as mentally retarded are, in fact, false negatives and their classification is the result of statistical artifacts in the testing instruments. The results of these studies and the recommendations based upon these results, therefore, are limited to the extent to which intelligence test scores can be assumed to be a relatively reliable index of mental retardation.

5.6 Mental Retardation and Rehabilitation

It is assumed that the condition of mental retardation is not in itself a total incumberance to the person's development of educational, vocational and social skills. For too long the criminal justice system has assumed that the prognosis for the retarded offender is poor because the condition of retardation is irreversible. A preponderance of evidence has been developed in recent years to indicate that both professionals in the field of corrections and the field of mental retardation have underestimated the vocational and social potential of the retarded offender. The assumption that retardation is irreversible and renders the person totally static and incapable of future development fosters a philosophy which would untimately result in the warehousing of retarded offenders with no opportunity for training or development. Such an assumption is scientifically and morally tragic since it discourages experimentation to determine the degree of vocational and social potential of such individuals. Although this attitude has permeated the field of corrections for many decades, the current philosophy of treatment would assume that any individual is capable of development and apriori limits should not be applied simply on the basis of intelligence, prior criminal record, or any other statistical indicator.

5.7 Degree of Mental Retardation

A review of the literature concerning mentally retarded individuals in correctional institutions clearly indicates that the vast majority of such individuals are borderline or mildly retarded (IQs 83-52).[6] Very few of these individuals would be classified as severely or profoundly retarded which is understandable since such persons would be easily identified as retarded at the time of their arrest. Another factor which mitigates against the processing of the severely or profoundly retarded in the criminal justice system is the fact that such individuals are usually known to be retarded prior to their tenth birthday, the age at which they become accountable under the criminal law. In most cases, persons in the 51 or below IQ range are usually diverted from the criminal justice system shortly after arrest since the severity of their retardation is noticeably apparent.

The recommendations developed in this study assume that the vast majority of mentally retarded offenders in correctional institutions are in the borderline and mildly retarded range.

Footnotes

[1]Coleman, J.C. Abnormal Psychology and Modern Life, Glenview, Ill: Scott, Foresman and Co., 1972, pp. 561-584.

[2]Brown, G.S. and Courtless, T.F. The Mentally Retarded and the Law, Report issued by the National Law Center, Washington, D.C., 1965.

[3]Ibid.

[4]Zeleny, L.D. "Feeble-Mindedness and Criminal Conduct," American Journal of Sociology, No. 38, 1933.

[5]President's Commission on Law Enforcement and the Administration of Criminal Justice, The Challenge of Crime in a Free Society, U.S. Government Printing Office, Washington, D.C., 1968, p. 55.

[6]Brown, B.S. and Courtless, T.F., op.cit.

6.0 RECOMMENDATIONS

This section contains a series of recommendations which, taken together, represent a strategy for the proper handling and treatment of the mentally retarded offender. These recommendations were extracted from the literature and law reviews, as well as the empirical studies reported in the succeeding volumes of this work.

For organizational purposes, the recommendations have been categorized into various areas including; legislative recommendations, recommendations concerning education and training, recommendations for research and development, recommendations for administrative and procedural changes, and, finally, recommendations concerning cooperative arrangements between various local and state agencies concerned with the care and treatment of the mentally retarded.

6.1 Legislative Recommendations

As examination of current criminal procedural law in Texas and other states, as well as consideration of federal appellate case law, indicates that there are a number of legal ambiguities in the current provisions involved in the prosecution of a mentally retarded offender. Of particular interest to this study are the procedures related to criminal insanity and incompetence to stand trial.

Most of the recommendations made in this section deal with amending current procedural laws to recognize the peculiar disability

of the mentally retarded offender and suggest ways to provide proper safeguards when the issue of insanity or incompetence is raised in a criminal proceeding. The recommendations in this section are discussed in more detail in Volume 3 of this study which the reader may wish to consult for a more indepth understanding of the problem.

• *RECOMMENDATION: Texas should discontinue the practice of automatically committing a defendant for a competency examination and, instead, only commit those defendants who have been determined ineligible for bail or who, for medical or other legitimate reasons, cannot be examined on an out-patient basis.*

Normally, when the question of a defendant's competency to stand trial is raised in a criminal proceeding, such proceedings are suspended so that the defendant may be examined. The prevailing practice in most states is to commit the defendant to a mental health facility for purposes of examination. The duration of this commitment varies from state to state but normally requires more than a month. There is serious question as to the constitutionality of this practice since the automatic commitment of the defendant to a mental health facility for examination may constitute a violation of his right to bail. In the majority of the states, including Texas, defendants have either a statutory or constitutional right to pretrial release in non-capital cases which is absolute. The fact that a defendant has been ordered to undergo a mental examination should not be interpreted as a condition which should automatically deny the right to bail.

Since automatic commitment to an institution occurs when the issue of incompetency is raised, and as such commitment represents a denial of freedom without access to bail, the provision of due process would seem to require at least that a hearing be initiated to determine whether such commitment is necessary, and whether the defendant could be examined on an out-patient basis.

- *RECOMMENDATION: The State's procedural laws should be amended and administrative practices reviewed to assure that a defendant committed pre-trial pursuant to a competency evaluation be confined for as short a period as reasonably necessary to properly evaluate his competency.*

Although recommendations have been made against the practice of automatically committing defendants pre-trial for competency evaluation, it is recognized that in some cases the defendant ought to be committed since he represents a danger either to himself or to the community. In such cases, both the law and the procedural practice of the court should assure that the duration of the defendant's confinement is as short as reasonably possible. Since such commitments are made prior to any determination of guilt, undue delay in the examination represents unnecessary denial of his freedom and borders on practices which are unconstitutional in nature.

● *RECOMMENDATION: The court should discontinue the practice of perfunctorily accepting the conclusions of doctors and psychiatrists who examine the defendant, and conduct a full and fair evidentiary hearing to reach an independent and informed decision on the question of the competency of a mentally retarded defendant.*

The concept of due process requires that any person facing the loss of his liberty be accorded a full and fair hearing. Judicial procedures in competency hearings which simply accept the conclusions of expert witnesses (i.e., psychologists and psychiatrists) without providing the opportunity for a full and fair hearing as to the evidence that supports these conclusions work against the interest and due process rights of the mentally retarded offender. It is not considered sufficient for the court to simply acquiesce to the medical or psychiatric report, but it should make an independent informed decision about the defendant's competency. In such hearings, the defendant should be represented by counsel and have an opportunity to examine all witnesses testifying about his competency and be provided the opportunity to present evidence in his behalf. Similarly, the prosecutor should have an opportunity to examine all witnesses and present evidence in the interest of the state.

The heart of this recommendation, however, is for the court to reject conclusionary findings of experts and examine carefully the medical and factual basis underlying these findings. Hearings which provide a full and fair disclosure of the evidence regarding competency, as opposed to hearings

which perfunctorily accept the conclusions of expert witnesses, should provide the jury a more meaningful basis whereby to determine the competency of the mentally retarded defendant.

● *RECOMMENDATION: Article 46.02 of the Texas Code of Criminal Procedure should be amended to require the prosecution to introduce evidence sufficient to demonstrate the mentally retarded defendant's potential danger to society or himself prior to his commitment on a finding of incompetency.*

Presently, Texas law requires that on the finding of incompetency, the jury determines whether the defendant requires hospitalization for his own welfare and protection or the protection of others. It is recommended, however, that the burden of proof as to the relative danger of the individual be laid upon the prosecutor as a safeguard against the commitment of otherwise nondangerous mentally retarded defendants.[1] This would require the prosecution to present evidence indicating the need for commitment, and protect the defendant from a jury which might automatically conclude that a judgement of incompetency implies that the individual would be a danger to himself or others.

● *RECOMMENDATION: Article 46.02 of the Texas Code of Criminal Procedure should be amended to provide all incompetent defendants who have been committed involuntarily under this Article to be eligible for release from confinement whenever they do*

not require hospitalization for their welfare and protection, or the protection of others.

The intent of the current Texas statute providing for the commitment of an incompetent defendant is based upon the assumption that he is a danger to himself or to the community. However, the decision to release an incompetent defendant is based upon his capacity to stand trial, not upon his capacity to be dangerous to himself or others. In short, this means that the reason the incompetent defendant is committed has nothing to do with the procedures for his release from commitment. It is recommended, therefore, that the law be amended so that defendants would be released from confinement at such time as they no longer represent a danger to themselves or to others, and not solely on the basis of their competency to stand trial.

● *RECOMMENDATION: Statutes requiring the commitment of an incompetent mentally retarded defendant because he represents a danger to the community should be revised to parallel civil statutes affecting the commitment of the mentally retarded.*

Society's justification for committing dangerous incompetent defendants is essentially the same as the justification for civilly committing mentally ill persons. Both reflect a moral and social judgement about the circumstances in which it is appropriate to confine mentally disabled persons involuntarily. Broadly, the grounds for civil commitment are that a person is dangerous to others or that he is dangerous to himself or in need of care. The same standards used for civil commitment should also be used for the commitment of incompetent mentally retarded offenders.[2] It is

recommended, therefore, that statutes governing the commitment of incompetent mentally retarded defendants parallel the civil statutes affecting comparable commitments.[3]

● *RECOMMENDATION: All statutes and judicial practices that automatically commit an incompetent mentally retarded defendant to a mental institution should be abolished in favor of procedures that inquire into whether the defendant should be, or needs to be, committed after he has been found incompetent to stand trial.*

An individual found incompetent to stand trial is normally committed to a mental institution until such time as he is adjudged competent to participate in his trial. While this procedure may be defensible in the case of a mentally ill individual since his disability is considered reversible, it can be tantamount to life imprisonment in the case of the mentally retarded individual since mental retardation is not usually considered a transitory state, but a condition which is relatively irreversible. The commitment of the individual pending his subsequent competency to stand trial amounts to indeterminate incarceration prior to a finding of guilt. Part of the rationale for commitment to a mental institution on a finding of incompetency certainly involves the motivation of protecting society from an individual not considered responsible for his actions; however, it is quite conceivable that a significant number of mentally retarded individuals who could be adjudged incompetent represent little risk to the community and could be more effectively treated in community-based programs as opposed to institutionalization in a mental health facility.

It is recommended, therefore, that the incompetent mentally retarded defendant not be automatically committed to an institution but that an examination be conducted to determine his relative risk to the community and the courses of treatment which would be most effective in his case. If the defendant is found to represent a potential threat to the community, then commitment could be appropriate, but if not, commitment may represent a disposition which is both costly to the state and could be of little benefit to the individual involved.

- *RECOMMENDATION: Statutes should be enacted which require the court to periodically reexamine the condition of a mentally retarded defendant committed because of incompetency to stand trial.*

The purpose of this examination is two-fold; to determine whether it remains necessary to confine the individual due to the danger he represents to the community or his need for constant supervision, and to determine whether he is now competent to stand trial. Such statutes would be significant in assuring that incompetent mentally retarded defendants are not warehoused indefinitely in institutions when they no longer represent a clear and present danger to themselves or to the community. In addition, they would assure that the mentally retarded defendant is not detained indefinitely when he otherwise may be competent to stand trial.

● *RECOMMENDATION: The Texas Legislature should substitute the word "incompetent" for the words "presently insane" and "incompetency" for "present insanity" in Article 46.02 of the Code of Criminal Procedure.*

Presently, Texas law defines incompetency to stand trial as synonymous with legal insanity. There are a number of difficulties that proceed from this definition, including the fact that legal insanity has virtually no commonality with the definition of mental illness as developed by the fields of psychiatry and clinical psychology. The use of the test of insanity to determine incompetency places too narrow a limit on those individuals deemed to be incompetent to stand trial. This definition does not take into consideration the defendant's mental capacity to participate in his own trial. Competency should encompass the defendant's ability to recall the factual circumstances surrounding the alleged crime, to relate these facts to his counsel in a coherent manner, to decide with his counsel upon a plea, to approve the legal strategy used in the trial, to assist his counsel in the evidence and tactics used in the trial, to testify in the trial if necessary, and to appreciate to some degree the significance of the proceedings and his involvement in them. It is the conclusion of this study that to limit the definition of incompetency to the defendant's awareness of the differences between right and wrong is to do an injustice to the principles of justice and equity and restrict the criminal justice process from adequately handling the mentally retarded defendant.[4]

● *RECOMMENDATION: The legal definition of insanity and the use of insanity as a defense should be expanded to allow mentally retarded defendants to avoid penal dispositions where such dispositions are inappropriate.*

Under Texas law, and the laws of many other states, the issue of insanity refers to whether the individual is laboring under such a defect of reason from disease of the mind as not to know the nature or quality of his actions, or if he does know, is unable to distinguish between right and wrong in relation to such criminal acts. While this definition is rather conservative in the case of mentally ill individuals, it is even less sensitive in the case of a mentally retarded defendant. Properly speaking, the capacity to discriminate between right and wrong is not a binary issue, but is a matter of degree. In the case of the mentally retarded, by definition their intellectual capacity to understand and to deal with their environment is significantly impaired. To focus criminal responsibility solely on the person's ability to discriminate between right and wrong is to be insensitive to the pervading nature of the disability of the mentally retarded individual.[5] It is suggested, therefore, that the current legal definition of insanity be expanded to consider the disability of the mentally retarded and that consideration should be given to the Durham test or the test recommended by the American Law Institute for defining legal insanity.

● *RECOMMENDATION: Article 46.02 of the Texas Code of Criminal Procedure should be amended to provide that mentally retarded defendants found not guilty by reason of insanity and presently insane and committed to a mental institution can be released if they no longer require hospitalization for their own welfare or protection or the protection of others.*

Under Texas law a defendant who has been committed to an institution following a successful insanity defense must prove himself sane before he can be released from the institution. This legal requirement works a special hardship in the case of the mentally retarded. If it has been successfully argued that his mental retardation is the cause of his "insanity" it is highly unlikely that he will ever be able to demonstrate that he is "sane" since the condition of mental retardation is thought to be irreversible. Thus, the commitment of a mentally retarded individual until such time as he can demonstrate that he is sane can amount to a life sentence.

Ostensively, the purpose of committing a mentally retarded individual who has successfully pleaded insanity as a defense is because he is in need of custody for his own welfare or protection or the protection of others. Yet, a mentally retarded individual so committed may at some future point no longer need institutionalization for his own sake or for the good of society; however, it may be impossible for him to be released since the requirement for his release involves a demonstration of his legal sanity. It appears, therefore, in Texas law, that the basis for commitment has little or nothing to do with the criteria for release. This ambiguity should be rectified and it is recommended that the criteria for release be based on the need for continued commitment

for the person's own welfare or protection or the protection of others, as opposed to his demonstration of legal sanity.[6]

6.2 Recommendations Concerning Education and Training

The results of the present study indicate clearly that much of the difficulty in the proper handling of the mentally retarded offender stems from an ignorance as to the nature of the disability, as well as ignorance of the basic responsibilities and functions of the criminal justice system. Therefore, a number of recommendations have been developed which encourage education and training of the various professional groups involved in the care and treatment of retarded offenders. These recommendations are addressed to the law enforcement community, prosecutors, defense attorneys, judges, correctional workers, and professionals in the field of mental retardation.

- *RECOMMENDATION: The legal profession, and in particular the criminal bar, should undertake a program of informing defense lawyers, prosecutors, and judges of the extended meaning of criminal incompetence and that this definition should include the defendant's ability to participate effectively at his trial, not simply to know the difference between right and wrong.*

The data gathered in this study would indicate that a disproportionately large number of mentally retarded individuals have been committed to the Texas Department of Corrections. In fact the incidence of mentally retarded individuals received by the Department appears to be three times as high as the incidence of retardation in the general population. Since prison inmates represent only a subset of all individuals within the criminal justice

system, in all likelihood, the number of retarded individuals arrested and prosecuted in criminal cases is even higher.

While it is practically impossible to properly diagnose all criminal defendants, every effort should be made to assure that retarded individuals whose intellectual capacity denies their adequate participation in their own trial are not routinely prosecuted. Since the mentally retarded defendant represents a unique individual under the legal umbrella of incompetence, care should be taken to educate defense attorneys, prosecutors and judges to the extended meaning of incompetence and how it applies to the case of the mentally retarded defendant. A variety of educational forums exist where these matters could be discussed including the curricula of the state's law schools, seminars routinely conducted by prosecutors and judges, as well as in the journals published by the bar association and the law schools. It is the authors' considered opinion that if defense attorneys, prosecutors and judges were sensitized as to the legal plight of the retarded defendant, particularly with regard to his competency to stand trial, the criminal justice process would enhance its capability to equitably handle the retarded defendant.

● *RECOMMENDATION: Curricula on mental retardation should be included in the pre-service and in-service training programs of criminal justice personnel.*

As discussed elsewhere in this report, many of the problems associated with the processing of the mentally retarded offender in the criminal justice system stem from an ignorance of the nature of retardation on the part of criminal justice personnel. It is recommended, therefore, that pre-service and in-service training programs within the criminal justice field include discussions of the mentally retarded offender. Discussions in this area should be included in the training of police officers, probation officers, correctional officers, and parole officers at all levels within the system.

- *RECOMMENDATION: Private organizations concerned with the care and treatment of the mentally retarded should conduct seminars and conferences for personnel in the criminal justice field to educate them as to the nature of mental retardation and to share with the criminal justice system the types of resources and programs amenable to the mentally retarded individual.*

As mentioned elsewhere in this section, the apparent indifference in the handling of the mentally retarded offender in the criminal justice process stems primarily from ignorance of the needs and capabilities of the retarded individual. It is incumbent upon professionals in the field of mental retardation to develop an educational forum for individuals in the criminal justice system which is directed at sensitizing the justice system to the needs and capabilities of the mentally retarded offender. This should involve the organization of conferences and seminars by professionals in the field of mental retardation specifically for criminal justice personnel, as well as participation by professionals in the field of retardation in the continuing education

programs of the various professional groups in the justice system.

6.3 Recommendations for Research and Development

Two factors which mitigate against the proper care and treatment of mentally retarded offenders include the lack of standardized diagnostic procedures in correctional institutions for the identification of mental retardation and insufficient empirical information on the relationship between intelligence and treatment prognosis.

While many correctional institutions do conduct diagnostic programs for newly committed offenders, there is little comparability in testing procedures from one institution to another. This problem is compounded by the fact that little research has been conducted to develop instruments specifically designed for intelligence testing of correctional populations which take into account that the majority of these individuals are undereducated, culturally handicapped and/or linguistically deprived.

Another problem area requiring intensive research involves the relationship between intelligence and treatment prognosis. There appears to be a pervasive stereotype within the field of criminal justice that mentally retarded individuals represent a bad risk for most institutional treatment programs and community-based correctional programs. Policies which deny the mentally retarded offender access to such programs which are not

based upon empirical evidence not only frustrate the rehabilitation of the mentally retarded offender, but may constitute a violation of his legal right to treatment.

Because of these insufficiencies, several recommendations were developed concerning research and development in the areas of diagnostic testing and treatment programs for the mentally retarded offender. While these recommendations are primarily directed at the correctional community, their successful implementation will require participation with professionals in the fields of psychology, psychiatry and mental retardation.

● *RECOMMENDATION: Research should be initiated to develop procedures to discriminate between the culturally and linguistically deprived and the mentally retarded, especially as these individuals are classified and assigned to correctional department programs.*

Prior research indicates that the plurality of individuals within state correctional facilities are undereducated, underskilled and primarily come from socially and culturally impoverished backgrounds.[7] This fact compounds the difficulty for correctional administrators in making a proper differential diagnosis between the mentally retarded inmate and the socially and culturally deprived. This distinction is important since the improper diagnosis places the inmate in a diagnostic category for which the prognosis for educational and vocational achievement is considered poor. Without properly discriminating between the retarded and the culturally deprived, it is difficult for correctional administrators to develop meaningful educational

and vocational programs which meet the needs and intellectual capabilities of inmates.

It is recommended that the field of corrections in conjunction with experts in the field of mental retardation and psychometrics develop testing procedures specifically geared for correctional populations to assist in making this differential diagnosis. The end product of this research would greatly enhance the ability of correctional administrators to diagnose, classify, and treat mentally handicapped offenders committed to their custody.

- *RECOMMENDATION: The field of corrections should develop uniform intelligence testing procedures so that comparable information on the incidence of mental retardation could be obtained from the various correctional institutions.*

One of the studies conducted in this investigation involved a national survey of the intelligence screening techniques used by the various state departments of corrections. The results of this survey indicated rather substantial variability in the types of intelligence tests being used in the field of corrections. Although 51% of the institutions surveyed used the Revised Beta Intelligence Test to screen intelligence, there is enough variability in testing procedures to render unreliable any national estimate of the incidence of true mental retardation.

Correctional populations tend to be unique and different from the populations upon which intelligence tests are normally standardized. It is recommended, therefore, that the field

of corrections develop intelligence testing techniques specifically designed for use on correctional populations and that their use be encouraged within all correctional institutions in the country. This would allow for the uniform reporting of intelligence information on prison populations and provide a national index of the incidence of mentally retarded individuals within correctional institutions.

It is also recommended that the results of this uniform intelligence testing program be shared with the National Prisoner Statistics Program conducted by the Law Enforcement Assistance Administration. Comparable information could also be submitted by juvenile correctional institutions to the Children's Bureau of the Department of Health, Education and Welfare which gathers statistical information on the background characteristics of incarcerated juvenile populations.

• *RECOMMENDATION: Studies should be initiated to determine the relationship between intelligence and success and failure in various institutional and community-based correctional programs, as well as successful post-release rehabilitation.*

Currently, an individual's intelligence is one of several factors considered in recommending him for institutional and community-based programs. The data gathered in the present study would indicate that the lower an individual's intelligence, the more negatively he is viewed as a good risk for such programs. The literature reviews conducted in this study indicate that there

is a paucity of information as to the relationship between intelligence and success or failure in treatment programs. Therefore, it is recommended that research be conducted to determine whether intelligence is a good prognosticator, and if it is not, then it should be disregarded as a decision making criterion. Simply assuming that the mentally retarded are poor risks for institutional and community-based correctional programs is not only unscientific, but may represent a violation of the retarded offender's right to treatment.

- *RECOMMENDATION: Juvenile and adult probation departments should experiment with specialized case loads for the intellectually handicapped.*

The data gathered in this study suggest that the intellectually handicapped are considered poorer risks for probation than are their more intelligent counterparts. This is evidenced by the fact that in an examination of new admissions to the Texas Youth Council and the Texas Department of Corrections, the incidence of prior probations is lower among retarded individuals than among the non-retarded. Interviews with probation officers, juvenile judges and district judges indicate that the intellectually handicapped individual is generally considered a poor risk for probation.

Normally, one condition for granting probation to an adult is that he be employed. The implications of this requirement suggest that it works a hardship in the case of the mentally

retarded offender. Being an individual who is intellectually handicapped, he is frequently an individual with a poor educational background and less marketable job skills. These two handicaps coupled with the fact that unemployment is highest for unskilled workers indicate why probation discriminates against the less intellectually endowed.

To obviate the practice of perfunctory incarceration of the mentally retarded, it is strongly suggested that juvenile and adult probation departments begin to experiment with specialized case loads for mentally retarded offenders. This would require special training for the probation officers responsible for these case loads and the limitation of the case load size to a workable number. Although, initially, the development of such case loads would require special funds for training the probation officers and the decreased case load size might require the hiring of additional staff, the cost effectiveness of this recommendation might be realized in the decrease in the institutionalized population.

6.4 Recommendations for Administrative and Procedural Changes

The investigations conducted under this study seemed to indicate that some of the problems involved in the proper care and treatment of the mentally retarded offender stem from inadequate administrative procedures within the criminal justice system and within mental health agencies concerned with the mentally retarded offender. In many cases, these changes call for the extension of existing policies to include mentally retarded

offenders or the sensitization of other policies to the peculiar disabilities and capabilities of the mentally retarded individual.

o *RECOMMENDATION: Under the provisions of Section 30 of the Texas Youth Council Act, the Council should immediately begin to determine those children within its custody who are mentally retarded and return such children to the court of original jurisdiction for appropriate disposition.*

The results of this study indicate that a significant number of the youths currently within the custody of the Texas Youth Council have IQs of [illegible] than 70. While this should not be considered synonymous with the diagnosis of mental retardation, it does indicate that in all probability a number of these youngsters are mentally retarded.

Section 30 of the Texas Youth Council Act restricts the Youth Council from retaining custody of mentally retarded adjudicated delinquents.[8] The utility of this provision of the Youth Council Act notwithstanding, the Council should initiate an intensive study of its current population to determine the number of retarded youngsters within its custody and return such youths to the court of original jurisdiction for appropriate dispositions.

Admittedly, alternate resources for the care and custody of mentally retarded delinquents are rather sparse. However, the continued custody of retarded delinquents by the Youth Council contrary to the provisions of the Texas Youth Council Act does

little to rectify existing ambiguities in the care and custody of retarded delinquents.

Admittedly, if the Youth Council were to return adjudicated retarded delinquents to the court, it would create a significant administrative dilemma in the subsequent placement of these youngsters and in the short-run is a less than desirable course of action. However, this action would immediately and significantly bring to light the plight of the mentally retarded delinquent and should in the long-run draw legislative attention to the problem.

● *RECOMMENDATION: The Legislature should initiate hearings on the utility of Section 30 of the Texas Youth Council Act to determine whether or not the Youth Council should have custody of adjudicated delinquents who are mentally retarded.*

Currently, the Texas Youth Council Act prohibits the Council from having custody of mentally retarded adjudicated delinquents. Section 30 of the Act reads as follows:

> Whenever the Youth Council finds that any child committed to it is mentally ill, feeble minded or an epileptic, the Youth Council shall have power to return such child to the court of original jurisdiction for appropriate disposition or shall have the power to request the court in the county in which the training school is located to take such action as the condition of the child requires. In no case will the Youth Council upon determination of such a finding related to any child committed to its custody delay returning the child to the committing county or making application to the proper court for appropriate handling of the case beyond the minimum time necessary for the removal of the child from its facility according to the law.[9]

The results of this study indicated that approximately 13% of the males and 17% of the females committed to the Texas Youth Council during fiscal year 1970 had IQs below 70. Although an IQ of less than 70 is not directly equatable with mental retardation, the data do indicate that the incidence of retardation could be as high as from three to four times that found in the general population. This high incidence coupled with the fact that the Youth Council is legally restricted from retaining custody of a retarded youngster indicates that the situation deserves the immediate attention of the Legislature, the juvenile court, and agencies interested in the treatment of the mentally retarded.

To simply impugn the Youth Council for having retarded youngsters within its custody would neither reflect an understanding of the problem nor foster a strategy maximizing the best interests of the retarded youngster or the state. The primary reason that retarded youngsters are committed to the Youth Council is the absence of timely alternate resources. Presently, the waiting period for admission to a state school for the retarded can be between two and three years. When the juvenile court is dealing with a mentally retarded delinquent who is deemed in need of close custodial supervision, its dispositional alternatives are extremely narrow. The youngster can be placed in a detention facility pending admission to a state residential facility for the retarded, but this alternative is not timely and probably is questionable on legal grounds. More frequently than not, the availability of foster homes for the retarded delinquent are

negligible or non-existent. The indigency of many of the families of these youngsters precludes placement in private facilities for the retarded and probation is usually considered an alternative with a poor prognosis for success. Frequently, in desperation and in the absence of any other alternative, the court commits such youths to the Texas Youth Council in the expectation that they will receive proper supervision and educational opportunities.

Presently, the law regarding the mentally retarded delinquent is negative in nature. It indicates that the Youth Council cannot retain custody of such youths, but it does not indicate who should have responsibility. If the best interests of the child and the state are served by having such juveniles committed to the care of the Youth Council, then the provisions of Section 30 of the Youth Council Act should be amended. If, however, the best interests of all concerned would be better served by having such juveniles within the care of other agencies, then such agencies should be statutorially identified and required to respond to the problem in a timely manner.

● *RECOMMENDATION: Under no circumstances should a mentally retarded juvenile be held in a detention facility for a protracted period of time pending admission to a state residential facility for the retarded.*

In Texas, a mentally retarded delinquent represents a peculiar problem for the juvenile court. Section 30 of the Texas Youth Council Act restricts the Council from having custody of mentally retarded adjudicated youngsters. However, to admit such a

juvenile to a state residential facility for the retarded can take from two to three years. In the absence of alternative resources, the court sometimes places the retarded individual into a detention facility pending admission to either a state facility for the retarded or some other alternative.

It is not uncommon to uncover situations where a mentally retarded youngster has been held in a detention facility for several years. To properly appreciate the undesirability of this detention practice is to understand that juvenile detention facilities in Texas range from well staffed detention facilities administered by juvenile probation departments specifically designed for the care of pre-delinquent and delinquent youths, to city and county jails. Only a few urban centers in Texas have constructed facilities specifically for the detention of juveniles. In the remaining areas of the state, detention facilities are either jails, small rooms within the juvenile department not specifically designed for long-term detention, or other comparable arrangements. The long-term detention of a juvenile in such facilities is totally undesirable. The lack of appropriate staff and educational and recreational resources foster detention characterized by indolence, boredom and a total lack of rehabilitative opportunities.

The practice of protracted detention of adjudicated delinquents pending admission to state residential facilities for the retarded could be eliminated if the Legislature mandated certain agencies as having immediate and direct authority over the retarded delinquent. Although it is not recommended here which

agency should have such a responsibility, the present legal ambiguities as to who has proper custody of the retarded delinquent is one of the factors which encourages the practice of protracted detention.

- *RECOMMENDATION: District criminal courts should encourage the use of pre-sentence investigations which are sensitive to the intellectual capacities of the offender.*

One of the responsibilities of the adult probation officer is to conduct pre-sentence investigations on the background of the offender to assist the court in assessing the proper sentence. In Texas, very few district courts routinely require pre-sentence investigations on adult criminal offenders. Such investigations are only conducted when requested by the judge and in the majority of jurisdictions, the sentencing judge infrequently requests such investigations.

It is recommended that the court make greater use of the pre-sentence investigation since it assists in properly assessing the needs of the individual and the utility of the sentencing options available. In addition, if the pre-sentence investigation is sensitive to the intellectual capacity of the offender then his intellectual handicap could be considered in assessing penalities and treatment alternatives.

Currently the only points in the criminal justice process when an individual might be identified as mentally retarded are in the

process of his prosecution if the issue of incompetency or insanity is raised, or in the diagnostic screening performed if he is committed to a correctional institution. The fact that the issue of incompetency or insanity is raised infrequently in criminal cases, indicates that this is not a likely procedure to identify retarded offenders in the criminal justice process. The most common indicators of the incidence of retardation are statistics made available by the diagnostic centers of correctional institutions. This is unfortunate, because it indicates that the point at which we are capable of determining whether the individual is retarded is after he has almost completely cycled through the criminal justice system. The use of the pre-sentence investigation and sensitization of it to the intellectual capacities of the offender would greatly enhance the system's ability to identify and properly sentence the mentally retarded offender.

- *RECOMMENDATION: Every effort should be made to handle the mentally retarded offender within his own community as opposed to institutionalization within the criminal justice system or state facilities for the mentally retarded.*

The data gathered in this study indicate that a disproportionately large number of mentally retarded individuals are residing within the Texas Youth Council and the Texas Department of Corrections. In both cases, the incidence of mentally retarded individuals is at least three times as high as that found in the general population. However, considering the number of such

individuals within the criminal justice process, it is interesting to note that the admission of such individuals to state residential facilities for the retarded is negligible.

Although the legislature in conjunction with administrators of state correctional facilities and facilities for the retarded must determine where best to treat the mentally retarded offender, it is recommended that every effort be made to treat him at the community level. Admittedly, some retarded offenders will require institutionalization either in a correctional facility or facility for the retarded. However, it is evident that many retarded offenders, particularly juveniles, could be better cared for in their own communities obviating the need for institutional commitment. The cost savings of this approach are obvious, but of greater importance is the fact that community-based treatment of these individuals will avoid the criminalizing effects of correctional commitment and the subsequent stereotyping and the debilitating effects that accrue from long periods of institutionalization.

● *RECOMMENDATION: A primary long-term goal in the treatment and rehabilitation of the mentally retarded offender must involve the early identification of the problem, diversion from the criminal justice system, and treatment on a continuing basis.*

The data gathered in this study clearly indicate that the absence of early detection mechanisms and diversion and treatment alternatives for the mentally retarded offender is a primary

factor contributing to the large incidence of retarded individuals in juvenile and adult correctional institutions. The studies conducted to determine the availability of community resources indicate that many agencies and institutions which are presumed to be responsible for the care of the defective delinquent avoid dealing with such individuals or refuse to handle them at all. While primary and secondary schools have programs for slow learners and the mentally retarded, they seem quite reticent if not resistant to opening their programs to the delinquent retardate. In some communities, the absence of resources for the pre-delinquent retardate virtually necessitates that the youngster commit a criminal act before his plight is brought to the public's attention.

Juvenile reformatories and many state prisons are ill-equipped to treat the mentally retarded. It is the considered opinion of the authors that the best investment of the community's and state's resources should be in the early detection and treatment of the acting-out delinquent prior to his entry into the criminal justice system. The criminal justice process cannot begin to treat or fulfill the needs of any individual until he has perpetrated a crime. Certainly, a philosophy that would deny treatment to the pre-delinquent retardate until he has committed a criminal act is totally unacceptable.

It is important to mention that the treatment accorded the mentally retarded delinquent must be of a continuous nature. While the delinquent's behavior may be treated <u>via</u> short term programs, the condition of mental retardation is irreversible

and requires continuous treatment programs if meaningful adaptation is to be realized.

● *RECOMMENDATION: Defense attorneys should exercise great caution in plea bargaining the cases of defendants who either are or are suspicioned to be mentally retarded.*

Plea bargaining involves negotiation between the prosecution and the defense in which the prosecution will either reduce the charge pending against the defendant or the sentence requested for the defendant in exchange for the defendant's plea of guilty. This is a very common practice in the prosecution of criminal cases and has the advantage of expediting criminal cases since the prosecution, in obtaining a plea of guilty, is not required to try the case before a jury. In cases where the state has developed a very strong case against the defendant, the advantage to the defendant is that he can receive a lesser sentence than he may otherwise receive by pleading not guilty and going to a jury trial.

Notwithstanding the criticisms of this procedure, plea bargaining is a wide-spread practice and occurs in the prosecution of approximately 95% of the felony cases tried in Texas.[10] Considering the incidence of mentally retarded individuals within the custody of the Texas Department of Corrections as identified in this study, it is evident that plea bargaining can work adversely in the case of the mentally retarded defendant. Granting the fact that the mentally retarded defendant has less intellectual

capability to understand the proceedings in which he is involved, he is probably more susceptible to coercion by the prosecution to plead guilty in exchange for a lesser sentence. Since the obligation of the defense is to provide the defendant with the best possible legal advice, in many circumstances it may be better to encourage the retarded defendant to plead incompetent than to negotiate a plea for a lesser sentence. However, the lack of understanding among many defense attorneys as to the nature of mental retardation, coupled with ignorance of the degree to which tests of incompetence may apply to the mentally retarded defendant, creates a situation in which a retarded individual is encouraged to plead guilty to charges of which he may not be criminally culpable or even guilty. Therefore, it is extremely important that defense attorneys as well as prosecutors, familiarize themselves with the nature of mental retardation, assure that such individuals are granted every opportunity for an adequate defense, and are not simply encouraged to plead guilty for the sake of expediency.

• *RECOMMENDATION: Correctional institutions should either eradicate or amend policies governing entrance to treatment programs which systematically discriminate against the mentally handicapped and the mentally retarded.*

Because of limited financial and manpower resources, correctional institutions typically develop treatment programs for those inmates who seem to represent the best prognosis for success. This practice is understandable from both a political and financial point of view. However, the stereotype of the

mentally retarded offender as generally being a poor risk for treatment is frequently incorporated into the policies which determine who may enter into correctional treatment programs. Such policies are in error, not only because they are based upon stereotypic thinking rather than scientific fact, but because they may also represent an unconstitutional denial of the inmate's right to treatment.[11]

• *RECOMMENDATION: Workers in the field of mental retardation should be provided statutory authority to operate specialized units for anti-social retardates within residential facilities when such individuals pose a threat to themselves or society.*

The Department of Mental Health and Mental Retardation has developed a specialized resocialization unit within the Mexia State School. The purpose of this unit is to provide close custody of mentally retarded individuals who manifest anti-social or delinquent behavior, to provide for their proper treatment, and to protect other residents and staff from their aggressive behavior. The utility of this approach in handling the acting-out retardate is obvious and the resocialization unit developed at the Mexia State School has received national recognition. However, care must be exercised that in developing such units within residential facilities, the retarded individual's due process rights are not violated. While correctional facilities have both constitutional and statutory authority to suspend the liberties and freedoms of convicted individuals, there is some question of such authority as

presently exercised by administrators of residential facilites for the mentally retarded in Texas.

It is recommended, therefore, that legislative mandates and due process procedures be developed and used by residential facilities which operate specialized units for the anti-social retarded resident. The development of statutory authority would have the positive effect of sensitizing the field to the rights of the retarded individual and obviate court suits which could stem from poor administrative practices involved in the operation of such units.

6.5 Recommendations for Cooperative Agreements

An examination of the plight of the mentally retarded offender indicates that there is administrative ambiguity as to whether he belongs in the criminal justice system or under the aegis of the mental health community. The fact that he perpetrated a criminal act would suggest that he should be prosecuted and rehabilitated in the correctional system. Yet, the recognition that he is mentally retarded suggests that he might be better handled by state agencies concerned with the treatment of the mentally retarded. While care must be exercised that no legally incompetent mentally retarded individual is prosecuted and sentenced to a correctional institution, some retarded individuals are legally culpable and should be prosecuted in the criminal justice system. Similarly, others with severe mental handicaps should be placed under the supervision of agencies charged with the care of the mentally retarded.

In order to alleviate the problems created by the retarded individual in the criminal justice system, and the delinquent individual within facilities for the mentally retarded, cooperative arrangements should be developed between various agencies to share professional expertise. Certainly, correctional administrators could share with administrators of residential facilities for the retarded their expertise in the areas of custody and security. Similarly, professionals in the areas of mental retardation could significantly assist correctional administrators in developing adequate procedures for the proper diagnosis of the mentally retarded offender and facilitate the development of treatment programs which are amenable to their needs.

- *RECOMMENDATION: The Texas Department of Corrections and the Texas Youth Council should develop an inter-agency agreement with the Department of Mental Health and Mental Retardation seeking their assistance in developing diagnostic procedures to properly identify mentally retarded inmates and, in the case of the Department of Corrections, to develop programs amenable to their needs and capabilities.*

The results of this study indicated that approximately 10% of the inmates committed to the Texas Department of Corrections have IQs of 70 or less. While some of these individuals may have scored low because of cultural biases within the tests, certainly, a significant plurality are mentally retarded. Given the incidence of this problem, the Texas Department of Corrections is encouraged to consult with the Department of Mental Health and Mental Retardation to develop on-going procedures to differentially diagnose

retarded inmates. Although the Department of Corrections has developed extensive educational and vocational programs, some of which are felt to be amenable to the needs of the mentally retarded, it is felt that professionals within the Department of Mental Health and Mental Retardation could assist the Department of Corrections in enhancing the scope and depth of its programs for the retarded.

- *RECOMMENDATION: Private organizations concerned with the care and treatment of the mentally retarded should develop active programs with the juvenile and adult criminal courts directed towards the diversion of the mentally retarded defendant from the criminal justice process.*

The studies conducted in this investigation indicate an absence of community-based resources for the mentally retarded which could assist in the diversion of retarded individuals from the criminal justice process. This problem seems to be particularly crucial in the case of handling retarded juvenile delinquents.

Public and private agencies concerned with the mentally retarded have developed various program resources for the community-based treatment of the retarded. It is strongly recommended that these organizations work with the juvenile and adult criminal courts in sharing their experience and technology in community-based treatment and actively assist in developing such diversionary programs for mentally retarded individuals who become involved with the criminal justice process.

These organizations should also strive to attain public acceptance of community-based programs for the mentally retarded delinquent at the local level as well as the state and national levels. Additionally, such groups could serve as lobbying blocks to bring about legislation to create and finance such treatment programs.

• *RECOMMENDATION: Private organizations concerned with the care and treatment of the mentally retarded should develop active monitoring programs to determine whether certain laws, procedures, or administrative policies adversely affect the mentally retarded offender processed through the criminal justice system.*

As discussed elsewhere in this section, various procedural laws involved in the prosecution of criminal cases adversely affect the mentally retarded defendant. However, there are a variety of administrative practices and procedures characteristic of certain criminal justice agencies which can adversely affect the retarded offender. Such policies as those involved in the classification and segregation of individuals within local jails, bail bond procedures, plea bargaining practices, pre-sentence investigation procedures pursuant to probation, and other administrative practices should be monitored and investigated by agencies concerned with the retarded to assure that they do not adversely affect the handling of the retard offender.

The presence of such practices is not evidence for the hypothesis that the criminal justice system is indifferent to the plight of the retarded offender. Quite to the contrary, the existence of

procedures and practices which adversely affect the retarded offender stems more from the ignorance of the nature of the disability. It is recommended, therefore, that private agencies concerned with the mentally retarded monitor such practices and provide feedback to the law enforcement system, the courts, and corrections as to how the process might be expedited in the case of the retarded offender.

● *RECOMMENDATION: Private organizations concerned with the care and treatment of the retarded should assist in developing foster home placements for retarded delinquents.*

Conversations with juvenile court workers and juvenile judges in Texas indicate a critical need for foster homes in which to place mentally retarded delinquents. Apparently, this is a difficult resource to develop since it is difficult enough to find foster homes willing to care for a delinquent child much less a mentally retarded child. In addition, it is difficult to find foster homes for minority group youngsters, which compounds the problem in the case of the mentally retarded delinquent since a significant number are minority group youngsters.

Since private organizations such as the American Association of Mental Retardation and the National Association of Retarded Children have greater familiarity and experience with the mentally retarded, such organizations are encouraged to work with the juvenile court in developing foster homes for retarded delinquents. This resource would be of great utility for the juvenile court

since it would obviate the current practice of detaining youngsters pending their admission to state facilities for the retarded or committing them to state training schools for the delinquent.

6.6 Summary

Table 1 on the following pages summarizes all the recommendations included in this section, indicating the agencies and organizations deemed most appropriate for their implementation.

Footnotes

[1]Jackson v. Indiana, 255 N.E. 2d, 515 (1970).

[2]Ibid.

[3]Bolton v. Harris, U.S. App. D.C. 1, 395 F2d 642 (1968).

[4]Dusky v. United States, 362 U.S. 402, 80 S.Ct. 788, 4 L.Ed. 2d 824 (1960).

[5]Ibid.

[6]Rouse v. Cameron, 125 U.S. App. D.C. 366, 373 F2d 451 (1967).

[7]President's Commission on Law Enforcement and the Administration of Justice, Challenge of Crime in a Free Society, U.S. Government Printing Office, Washington, D.C., 1967, p. 45.

[8]Vernon's Texas Civil Statutes, 1957, Art. 5143d, Sec. 30.

[9]Ibid.

[10]Annual Report - 1972, Texas Civil Judicial Council, Supreme Court Building, Austin, Texas, 1973.

[11]Rouse v. Cameron, op.cit.

TABLE 1

SUMMARY OF RECOMMENDATIONS

Recommendations	Responsible Agency
A. Legislative Recommendations	
• *Texas should discontinue the practice of automatically committing a defendant for a competency examination and, instead, only commit those defendants who have been determined ineligible for bail or who, for medical or other legitimate reasons, cannot be examined on an out-patient basis.*	*The Legislature*
• *The State's procedural laws should be amended and administrative practices reviewed to assure that a defendant committed pre-trial pursuant to a competency evaluation be confined for as short a period as reasonably necessary to properly evaluate his competency.*	*The Legislature and the courts*
• *The court should discontinue the practice of perfunctorily accepting the conclusions of doctors and psychiatrists who examine the defendant, and conduct a full and fair evidentiary hearing to reach an independent and informed decision on the question of the competency of a mentally retarded defendant.*	*The courts*
• *Article 46.02 of the Texas Code of Criminal Procedure should be amended to require the prosecution to introduce evidence sufficient to demonstrate the mentally retarded defendant's potential danger to society or himself prior to his commitment on a finding of incompetency.*	*The Legislature*
• *Article 46.02 of the Texas Code of Criminal Procedure should be amended to provide all incompetent defendants who have been committed involuntarily under this Article to be eligible for release from confinement whenever they do not require hospitalization for their welfare and protection, or the protection of others.*	*The Legislature*
• *Statutes requiring the commitment of an incompetent mentally retarded defendant because he represents a danger to the community should be revised to parallel civil statutes affecting the commitment of the mentally retarded.*	*The Legislature*

TABLE 1 (continued)

Recommendations	Responsible Agency
• *All statutes and judicial practices that automatically commit an incompetent mentally retarded defendant to a mental institution should be abolished in favor of procedures that inquire into whether the defendant should be, or needs to be, committed after he has been found incompetent to stand trial.*	*The Legislature and the courts*
• *Statutes should be enacted which require the court to periodically reexamine the condition of a mentally retarded defendant committed because of incompetency to stand trial.*	*The Legislature and the courts*
• *The Texas Legislature should substitute the word "incompetent" for the words "presently insane" and "incompetency" for "present insanity" in Article 46.02 of the Code of Criminal Procedure.*	*The Legislature*
• *The legal definition of insanity and the use of insanity as a defense should be expanded to allow mentally retarded defendants to avoid penal dispositions where such dispositions are inappropriate.*	*The Legislature and the courts*
• *Article 46.02 of the Texas Code of Criminal Procedure should be amended to provide that mentally retarded defendants found not guilty by reason of insanity and presently insane and committed to a mental institution can be released if they no longer require hospitalization for their own welfare or protection or the protection of others.*	*The Legislature and Texas Department of Mental Health and Mental Retardation*
B. Recommendations Concerning Education and Training	
• *The legal profession, and in particular the criminal bar, should undertake a program of informing defense lawyers, prosecutors and judges of the extended meaning of criminal incompetency and that this definition should include the defendant's ability to participate effectively at his trial, not simply to know the difference between right and wrong.*	*The bar, the state's law schools, and professional organizations within the field of law*

TABLE 1 (continued)

Recommendations	Responsible Agency
• *Curricula on mental retardation should be included in the pre-service and in-service training programs of criminal justice personnel.*	*Law Enforcement agencies, juvenile and adult probation departments, The Texas Department of Corrections, Texas Board of Pardons and Paroles, and The Texas Youth Council.*
• *Private organizations concerned with the care and treatment of the mentally retarded should conduct seminars and conferences for personnel in the criminal justice field to educate them as to the nature of mental retardation and to share with the criminal justice system the types of resources and programs amenable to the mentally retarded individual.*	*American Association for Mental Deficiency, National Association for Retarded Children and the Council for Exceptional Children*
C. Recommendations for Research and Development	
• *Research should be initiated to develop procedures to discriminate between the culturally and linguistically deprived and the mentally retarded, especially as these individuals are classified and assigned to correctional treatment programs.*	*American Correctional Association, Law Enforcement Assistance Administration, and professionals in the fields of psychology, psychometrics and mental retardation*
• *The field of corrections should develop uniform intelligence testing procedures so that comparable information on the incidence of mental retardation could be obtained from the various correctional institutions.*	*American Correctional Association, Law Enforcement Assistance Administration, and professionals in the fields of psychology, psychometrics and mental retardation.*
• *Studies should be initiated to determine the relationship between intelligence and success and failure in various institutional and community-based correctional programs, as well as successful post-release rehabilitation.*	*Professionals in the fields of probation, parole, institutional corrections, and rehabilitation.*

TABLE 1 (continued)

Recommendations	Responsible Agency
• *Juvenile and adult probation departments should experiment with specialized case loads for the intellectually handicapped.*	*Professionals in the area of juvenile and adult probation*
D. Recommendations for Administrative and Procedural Changes	
• *Under the provisions of Section 30 of the Texas Youth Council Act, the Council should immediately begin to determine those children within its custody who are mentally retarded and return such children to the court of original jurisdiction for appropriate disposition.*	*The Texas Youth Council and the courts*
• *The Legislature should initiate hearings on the utility of Section 30 of the Texas Youth Council Act to determine whether or not the Youth Council should have custody of adjudicated delinquents who are mentally retarded.*	*The Legislature*
• *Under no circumstances should a mentally retarded juvenile be held in a detention facility for a protracted period of time pending admission to a state residential facility for the retarded.*	*The Legislature, the juvenile court, and juvenile probation departments*
• *District criminal courts should encourage the use of pre-sentence investigations which are sensitive to the intellectual capacities of the offender.*	*The courts and adult probation departments*
• *Every effort should be made to handle the mentally retarded offender within his own community as opposed to institutionalization within the criminal justice system or state facilities for the mentally retarded.*	*The courts, prosecutors, probation departments, and administrators of community-based treatment and correctional programs*
• *A primary long-term goal in the treatment and rehabilitation of the mentally retarded offender must involve the early identification of the problem, diversion from the criminal justice system, and treatment on a continuing basis.*	*The schools, community diagnostic centers, the juvenile court, juvenile probation departments, and community-based treatment centers.*

TABLE 1 (continued)

Recommendations	Responsible Agency
• *Defense attorneys should exercise great caution in plea bargaining the cases of defendants who either are or are suspicioned to be mentally retarded.*	*The courts, prosecutors and defense attorneys*
• *Correctional institutions should either eradicate or amend policies governing entrance to treatment programs which systematically discriminate against the mentally handicapped and the mentally retarded.*	*The Texas Department of Corrections, The Texas Youth Council, probation departments and the Texas Board of Pardons and Paroles*
• *Workers in the field of mental retardation should be provided statutory authority to operate specialized units for anti-social retardates within residential facilities when such individuals pose a threat to themselves or society.*	*The Legislature and professionals in the field of mental retardation*
E. Recommendations for Cooperative Agreements	
• *The Texas Department of Corrections and the Texas Youth Council should develop an inter-agency agreement with the Department of Mental Health and Mental Retardation seeking their assistance in developing diagnostic procedures to properly identify mentally retarded inmates and, in the case of the Department of Corrections, to develop programs amenable to their needs and capabilities.*	*The Texas Department of Corrections, The Texas Youth Council, and the Texas Department of Mental Health and Mental Retardation*
• *Private organizations concerned with the care and treatment of the mentally retarded should develop active programs with the juvenile and adult criminal courts directed towards the diversion of the mentally retarded defendant from the criminal justice process.*	*American Association for Mental Deficiency, the National Association for Retarded Children, and the Council for Exceptional Children*
• *Private organizations concerned with the care and treatment of the mentally retarded should develop active monitoring programs to determine whether certain laws, procedures, or administrative policies adversely affect the mentally retarded offender processed through the criminal justice system.*	*American Association for Mental Deficiency, the National Association for Retarded Children, and the Council for Exceptional Children*

TABLE 1 (continued)

Recommendations	Responsible Agency
• *Private organizations concerned with the care and treatment of the retarded should assist in developing foster home placements for retarded delinquents.*	*American Association for Mental Deficiency and the National Association for Retarded Children*

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PROJECT CAMIO

Correctional Administration and the Mentally Incompetent Offender

Volume 1 Strategies for the Care and Treatment of the Mentally Retarded Offender

Volume 2 Theories on Criminality and Mental Retardation

Volume 3 The Mentally Retarded and the Law

Volume 4 The Mentally Retarded in an Adult Correctional Institution

Volume 5 The Mentally Retarded in a Juvenile Correctional Institution

Volume 6 The Delinquent in a State Residential Facility for the Mentally Retarded

Volume 7 The Mentally Retarded and the Juvenile Court

Volume 8 A National Survey of the Diagnosis and Treatment of Mentally Retarded Offenders in Correctional Institutions